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From 1740 to 1833

A Chapter in the History of the Development of Individual Freedom

BY

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PREFACE

"Liberty is the delicate fruit of a mature civilization.... At all times sincere friends of freedom have been rare, and its triumphs have been due to minorities,..." LORD ACTON.

This study is an attempt to trace the development of individual freedom in a limited area for a given period. The investigation is, in a sense, a product of the World War. During that struggle the government of the United States, in common with the other governments that were involved in the struggle, limited the field of individual freedom. This trenching upon the freedom of the individual seemed to many thoughtful persons to be a sign that old landmarks were being removed. A fear was expressed that the United States, while engaged in a struggle against military autocracy, might be led to adopting the methods of that autocracy.

There had been a time in America when the state asserted the right to coerce men in their religious activities. Whether men were religiously inclined or not they were compelled to attend the religious worship. The majority coerced the minority. How was the American ideal of a free church developed and popularized? Who was responsible for the change from an established church to a free church? These questions led to the investigation which resulted in this study. Massachusetts was chosen because it seemed to offer the materials for such a study. It was the last state to accept the American ideal of a free church. Miss Susan M. Reed had written a monograph on the church and state relations in Massachusetts from 1690 to 1740; the period during which toleration was introduced. The later period from 1740 to 1833 had not fared so well at the hands of historians. To me the later period seemed the more important because it was during that period that the fight for a free church was made.

Much of the literature on the subject is controversial. My aim has been to be just to all individuals and groups concerned. I can not hope to have attained perfection in this respect. It would probably be fitting to dedicate this investigation to the conservatives who were determined to retain the good which they saw in their institutions, and to the liberals who strove for a higher ideal, to make their commonwealth second to none in the matter of religious freedom. In both groups there were many sincere persons who built as well as they knew how.

My thanks are due to many teachers and fellow-students in four universities — Indiana State, Chicago, Harvard, and Western Reserve. Librarians and archivists also played their part in the search for the materials. It seems best not to mention all of these by name, but a few deserve special mention. Professor Marcus W. Jernegan of the University of Chicago and Professor Samuel Eliot Morison of Harvard University offered many valuable suggestions. In the preparation of the manuscript for the press I encroached upon the time, patience, and experience of Professor Henry E. Bourne of Western Reserve University. For any errors of fact or of form of expression my wife, Esther Steiner, shares the responsibility with me.

My thanks are also due to Western Reserve University for making it possible that the monograph should appear as a university publication under the Francis G. Butler fund.

JACOB C. MEYER.

Western Reserve University,
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CHAPTER I

INTRODUCTION

At the time when the Pilgrims came to Cape Cod every country of Western Europe had some form of an established church. The monarchs of that time regarded religion and public worship as affairs of the state. Whatever authority had been lost by the pope in this respect had been seized by the rulers of the national states. Those few subjects who claimed the right to follow the dictates of conscience in matters pertaining to religion and worship were looked upon as dangerous to the political and social order. They were the extreme radicals of their time. The principle adopted in the Peace of Augsburg in 1555 made the religion of the ruling prince the religion of the state. That principle was not materially modified in the Peace of Westphalia in 1648. The Pilgrims were Separatists; they had left the established church in England; they firmly believed that the individual should be given more freedom in religious matters than was permitted in England at that time. On the other hand, they were not fully in accord with the views of the Anabaptists who believed in the complete separation of church and state.[1] Their famous pastor, John Robinson, brought out this fact in his argument against his friend, John Smith, who contended

> "That the magistrate is not by virtue of his office to meddle with religion or matters of conscience to force and compel men to this or that form of

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[1] For the beliefs of the Anabaptists see Egli, Die Züricher Wiedertäufer zur Reformationszeit; Neff, Gedenkschrift zum 400 Jährigen Jubiläum der Mennoniten oder Taufgesinnten, 1525–1925.

> religion or doctrine; but to leave Christian religion free to every man's conscience and to handle only civil transgressions . . ."

Robinson maintained that magistrates

> "have no power against the laws, doctrines and religion of Christ: but for the same, if their power be of God they may use it lawfully and against the contrary."[2]

Obviously the crux of the matter is what is *for* and what is *against* "the laws, doctrines and religion of Christ." If it be granted that the ecclesiastical authorities in England had the right to determine the line of demarcation, they could easily defend their action by which they drove the Pilgrims into exile.

The Puritans who founded the Bay Colony in Massachusetts were not opposed to an established church. They wanted to reform or purify the Anglican church, but were not opposed to its polity. They could consistently make the purified church the established church[3] of their colony. They came to seek liberty for themselves rather than to found an asylum for all the oppressed.

The different theories of the relation between ecclesiastical and civil affairs at that time may be illustrated by referring to four religious groups. The Anglicans believed in the established church as it was; the Puritans believed in an established church, but they thought the Anglican church needed some reforms; the Separatists thought the Anglican church was like a vessel in which the process of decay had gone so far that it was better to rear a new structure, although they were not agreed on the details of the new structure; the Anabaptists demanded complete freedom of conscience which could be attained only by the separation of church and state. As has been indicated, the Pilgrims were Separatists who were less radical than the Anabaptists.[4]

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[2] Burgess, John Robinson, 152–154 and chapters xiii, xv, and xviii; Hubbard, History of New England, 93–97; Smith, Religious Education in Massachusetts, 2–3. The premise that the power of magistrates is of God is taken from the New Testament, Romans xiii.

[3] The established church in Massachusetts was the Congregational church. The other denominations were dissenters. The use of the word "orthodox" led to controversy. The Anglicans maintained that in legal documents it meant their church, whereas the Congregationalists maintained it meant the established church.

The purpose of this chapter is to outline the interrelations of religion and politics in Massachusetts from the time of the first settlements by European peoples until the middle of the eighteenth century. An understanding of that development is essential to the student of the period after 1750.

Because of their belief, the Pilgrims were unable to win the approval of King James I to establish a colony in his realm. Prominent members of the Virginia Company did, however, assure them that the king would tolerate them, even though he did not officially sanction their scheme. They finally decided to make the venture on the basis of that assurance. By way of consolation, Bradford wrote:

> "ther would be no great certainty in furder confirmation . . . for if after wards ther should be a purpose or desire to wrong them, though they had a seale as broad as a house flore, it would not serve the turne; . . . ."[5]

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[4] Any person who demanded an extension of religious liberty in Massachusetts was likely to be called an Anabaptist. To call a person an Anabaptist was about the equivalent of calling one a Bolshevik now. See Neff, 65. Anabaptists were persecuted by Protestants as well as Catholics. The idea of a free church was politically and religiously heretical.

[5] Bradford, History of Plymouth Plantation, 50–53.

Having no official approval for their colony, the Pilgrims were in Plymouth on their good behavior. Since there were many influential people in the mother country who were opposed to the Pilgrim experiment in radicalism, the indefinite status of the colony was the cause of no little anxiety on the part of the leaders in Plymouth. Some of the opponents of the colony, as members of the company of London adventurers, seem to have been responsible for "blocking the way for Robinson," the pastor of the Pilgrims in Holland. At all events Robinson was never permitted to go to the Pilgrim colony. The adventurers sent John Lyford, who was characterized by the agent for the Pilgrims as "none of the most eminent and rare," to act as the pastor of the colony. Then, to add insult to injury, these opponents listened to the charges brought by disgruntled settlers who accused the Pilgrims of irregularities—heresies, diversities in religion, lack of tolerance for those who were not Separatists, want of sacraments, and neglect of family duties.[6]

The purpose of these accusations, on the part of Lyford at least, is best expressed in his own language in a letter to London. He wrote:

> "ye Leyden company (Mr. Robinson and ye rest) must still be kepte back, or els all will be spoyled. . . ."[7]

His plan was to check the migration of Separatists and to encourage Puritans and Anglicans to go to

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[6] Ibid., 169 ff. and 182 ff.; Burgess, John Robinson, ch. xxiv. It is interesting to note that the Pilgrims, who were probably the most tolerant people in the king's realm, were blamed for intolerance. Lyford did not remain in the colony very long because of the mutual lack of confidence between him and the leaders of the colony.

[7] Burgess, 278; Bradford, 186.

Plymouth in numbers sufficiently large to assimilate the little band of Pilgrims. Although he and his supporters were able to keep Robinson from coming to the colony, their plan in general was frustrated. It taxed the ability of Bradford and his associates to meet the charges. They were blamed for intolerance and for too much toleration at the same time, for not observing the sacraments, when the only reason for not observing them was the fact that their pastor was not permitted to come to the colony. Bradford wrote:

> "the more is our wrong, that our pastor is kept from us by these mens means, and then reproach us for it when they have done."[8]

In spite of the efforts of their opponents, the Pilgrims refused to accept an established church for at least one generation after they came to Plymouth.[9] Replying to their accusers in 1625, the authorities stated their philosophy in the following beautiful passage:

> "The French may erre, we may erre, and other churches may erre, and doubtless doe in many circumstances. That honour therfore belongs only to the infallible word of God, and pure Testamente of Christ, to be propounded and followed as the only rule and pattern for direction herein to all churches and Christians. And it is too great arrogancie for any man, or church to thinke that he or they have so sounded the word of God to the bottome, as precislie to sett down the church discipline, without error in substance or circumstance, as that no other without blame

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[8] Burgess, 275; Bradford, 175, 186, 193–194. Bradford saw through Lyford's plan to "have such a number provided as might oversway them (the Pilgrims) hear."

[9] Green, The Voluntary Maintenance of Ministers etc.

> may digress or differ in anything from the same."[10]

It was the pressure brought to bear upon the leaders in Plymouth by the authorities in the neighboring colonies, together with the coming of the Quakers, that finally drove the second generation to the adoption of a more rigid ecclesiastical system. The other members[11] of the New England Confederation of 1643 were in favor of uniformity in religion. The example of Rhode Island, with its conglomerate population, made these other members all the more zealous in their efforts to keep themselves unspotted from what they considered the evils of religious liberty. The leaders in Plymouth reluctantly accepted an established church when the only alternative seemed to be ostracism by the other members of the Confederacy. The second generation was unwilling or unable to maintain the advanced position which had been taken and held by their progenitors. Whether they could have maintained it is not for the historian to determine. At all events, by 1691 the legal relations between church and state were practically the same in Plymouth as in the Bay Colony.[12]

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[10] Bradford, 202–203.

[11] The other three members were New Haven, Connecticut, and Massachusetts Bay. Rhode Island was not acceptable because of its freedom in religious affairs.

[12] The Compact, Charter and Lawes of New Plymouth (Brigham edition), 99–104, 113–114, 122–128, 130, 142–143, 152–153, 157–158, 160, 187, 190, 206, 219, 247ff.; Records of the Colony of New Plymouth (Shurtleff edition), V, 59, 98; Elliott, New England History, I, 113; Wertenbaker, The First Americans, 102–103. The Quakers came about 1657. It was at that time that the laws against them began to appear on the records. In 1660 a law was enacted which provided for fines for overseers of any "Squadron" who neglected "to take notice of and present a true list of such as are defective in bringing their armes to the meeting house on the Lord's day." In 1661 several men, including a marshal, were appointed to attend a Quaker meeting "to use their best endeavours by argument and discourse to con-

The plans for the support of worship in the Bay Colony were only partially completed when the colonists left the mother country. The method which was later quite generally adopted was the result of practical experience. In 1638 the General Court ordered a tax to be levied on those who did not contribute voluntarily for the support of the minister of the Gospel. This marked the beginning of what might be called a mixed system — partly voluntary and partly compulsory.[13] Six years later the commissioners of the United Colonies, which formed the New England Confederation, advised the several colonies to adopt a general tax for the support of worship. The delegates from Plymouth desired further consideration in the matter. In 1647 the Bay Colony enacted a law which empowered the towns to lay a tax for the purpose of providing residences for their ministers. This again was to be enforced only upon those who did not contribute voluntarily. During the next decade the General Court authorized the county courts to compel all the towns within their several jurisdictions to provide for the support of their ministers of the Gospel. In 1660 the same courts were ordered to purge the churches within their several

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vince and hinder them; . . ." When Dartmouth, Swansey and Eastham refused to levy the tax for the cost of war they were threatened with a fine. In 1671, 1672 and 1685 Dartmouth neglected to collect the tax for the support of a religious teacher. In 1685 it was "Ordered that Dartmouth pay this yeare twenty pounds to be raysed according to law for the encouragement of som to preach the word of God among them: . ."

[13] Winthrop, History of New England from 1630 to 1649, I, 288. In 1637 "There was a motion made also by the governor, that, whereas there was difference among the churches about the maintenance of their ministers, it might be agreed what way was most agreeable to the rule of the gospel; but the elders did not like to deal in that, lest it should be said, that this assembly was gathered for their private advantage."

jurisdictions of unorthodox teaching. By that time the civil power was employed to compel the inhabitants to support their ministers, to build habitations for them, and to supervise the religious instruction.[14]

Before the adoption of the Half-Way Covenant in 1662 the rite of baptism was reserved for those whose parents were members in full standing in the church. In order to become a member a candidate was required to relate, in public, his experience in regeneration. Those who were already members voted on the admission of new members. Since only church members could vote, even in political affairs, admission into the church meant, among other things, qualifying for the suffrage in political affairs. The Synod of 1662 decided that children of unregenerate parents might receive baptism. In the next generation, therefore, more of the adult males were potential voters. This fact in itself would probably have wrought a marked change in religious and political matters because there were many who had been opposed to some phases of the establishment who, previously, had had no voice in such matters. Moreover, the restored Stuarts began to interfere in the church and state relations in the colony. Charles II and James II intended to get recognition, and possibly primacy, for the Anglican church in the colony. The opening wedge came when, during the Andros regime, liberty of conscience was demanded for all Anglicans.[15]

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[14] Bay Colony Records, I, 68, 73, 82, 216, 240–241; II, 217; IV (i), 199, 286, 417; Watertown Records I, 1–2; Acts of the Commissioners of the United Colonies of New England, in Plymouth Colony Records, I, 19–20; Green, The Voluntary Maintenance of Ministers etc.

[15] On the Half-Way Covenant see Cobb, Rise of Religious Liberty in America, 487–489; Dunning, Congregationalism in America, 180–181; Dexter, Congregationalism, 468–472; Clark, Congregational

From the beginning the compulsory system of taxation for the support of worship raised considerable opposition. Roger Williams, Matthew Fuller, and a Mr. Briscoe thought it was a dangerous encroachment on the rights of the individual. Both Winthrop and Cotton seem to have accepted it with reluctance and were embarrassed when called upon to defend it. Cotton asserted that there was

> "a vast difference between men's inventions and God's Institutions: We fled from men's inventions, to which we else should have been compelled; we compel none to men's inventions."

This argument, like that of Robinson,[16] took for granted that its author had "sounded the word of God to the bottome," so that he could draw the line between "men's inventions and God's Institutions." It is the stock argument against individual freedom in religion.[17]

Churches in Massachusetts, 69–83; Massachusetts Colonial Records, IV (ii), 164–166; Tracy, The Great Awakening, 4–5; Walker, History of Congregational Churches, 156–160, 170–182; and Mode, Bibliographical Guide for American Church History, 82–84.

On Stuart policy see Hutchinson, History of the Colony of Massachusetts Bay, II, 11; Reed, Church and State in Massachusetts, 1691–1740, 20; Massachusetts Archives, XI, 40; Wertenbaker, The First Americans, 105ff.; Massachusetts Historical Society Collections, 3rd Series, VII, 147–148; 5th Series, IX, 150; Bishop, History of Elections in the American Colonies, 57. Bishop points out that the authorities in England demanded the repeal of the law which made membership in the Congregational church a qualification for suffrage. The law was repealed, but the new qualifications which were provided kept the suffrage limited to the same people as the old qualifications.

[16] See above, page one.

[17] Williams, Bloudy Tenet; Green, The Voluntary Maintenance of Ministers etc.; Winthrop, II, 112; Hubbard, General History of New England, 347, 412; Smith, Religious Education in Massachusetts, 17; Backus, Letter to a Gentleman in the Massachusetts General Assembly. Winthrop reports that Briscoe and others were grieved because, although they were not members of the church, they were

Although the accession of William and Mary indefinitely postponed the Stuart scheme of primacy for the Anglican church, it made some changes in the colony inevitable. William demanded a greater degree of toleration than had been permitted by the Puritan authorities. The Reverend Increase Mather, the agent for the colony, secured a new charter which provided for toleration of all Christians except Papists. Church membership was no longer to be a qualification for voting in civil affairs. Baptists, Quakers, and Episcopalians later contended that the charter placed them on the same plane politically and religiously as the members of the established Congregational church. In practice, however, the Congregationalists, following the suggestion of Mather, who did not believe in liberty of conscience, maintained their primacy.[18] In view of the fact that they could muster a majority of the voters in the province, they could enact such legislation as was necessary for the support of their form of worship. In 1692 it was provided by law that every town must maintain an "able, learned and orthodox" minister who was to be chosen by the voters of the town and supported by means of a tax levied on all taxpayers.[19] The law was amended the following year to give the church members the right to choose the minister. The voters still kept the right to ratify the choice of the

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taxed for it. He was fined ten pounds and one of his publishers forty shillings for publishing his arguments. In the Plymouth colony Matthew Fuller was fined for saying the compulsory tax was a "Divillish Law."

[18] Hutchinson, II, 17; American Society for Church History, Papers, V, 75; Backus, History of the Baptists, I, 532–533; Wertenbaker, The First Americans, 91; Smith, Religious Education in Massachusetts, 18.

[19] Province Laws, I, 62–63.

church members.[20] A further amendment in 1696 provided for cases which might arise when the voters in the town and the church members could not agree on a minister. In such cases ecclesiastical councils composed of "elders and messengers of three or five neighboring churches" were given final authority.[21] These laws practically gave to the church members the control of religious instruction in the towns. Boston was specifically excluded from the effects of the legislation because it never had had a tax supported church.

By 1700 the established Congregational church had practically regained all that it had lost in the new charter. King William was so much occupied with European affairs that the Baptists, Quakers, and Episcopalians in the province were left to fight their own battles for religious equality. In this fight the Quakers took the lead. Being in the majority in Dartmouth and Tiverton, they managed the town and church affairs in them according to their own more liberal views. The Congregationalists were unwilling to permit such irregularities in the few towns where "divers of the inhabitants were (are) Quakers, and others irreligious persons averse and opposite to the publick worship of God." To close this breach, a law enacted in 1702 authorized the county courts to enforce the laws for the support of worship.[22] Before this the enforcement had been left to the towns. Under this law the Congregationalists were enabled, theoretically at least, to maintain a tax supported church of their type in every town, even if a majority of the voters of the town were opposed to it, provided the majority of the voters in the county were in favor of such action. The members of the dissenting denominations were permitted to worship after their own manner, as provided in the charter, but they could not avoid paying for the support of the Congregational churches in their respective towns. The Bishop of London protested to the Crown when he was informed of this law. The Quakers, by maintaining their attitude of passive resistance, drove the General Court to further action.[23] In 1715 it ordered the county courts "to put the laws in execution," ostensibly "to prevent the growth of atheism, irreligion and prophaness," but manifestly to coerce the Quaker towns. When the action of the county courts proved ineffective, the General Court assumed the authority to send ministers to such towns as failed to provide "learned and orthodox" teachers of religion, paying them out of the funds of the province. The delinquent towns were then assessed for the amount spent by the General Court for the teachers of religion. This assessment was included in the regular province tax. This was an admission that the towns and counties could no longer be trusted to make proper provision for teachers of religion. The scheme for a religious establishment, therefore, led to the centralization of the government in the province.[24]

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[20] Ibid., I, 102–103; Hurd, History of Middlesex County, II, 336–337, 346. The latter reference gives instances where the church gave up its privilege to the town.

[21] Province Laws, I, 216–217.

[22] Province Laws, I, 505; II, 479; Reed, Church and State in Massachusetts, 1691–1740, 31; Backus, History of the Baptists, I, 464. The quotation is taken from the preamble of the law of 1702. Reed quotes it, "Quakers, and other irreligious persons," and the petition of the Episcopalians gives it, "Quakers & other Irreligious Persons."

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[23] Province Laws, I, 505–506, 508–509; Backus, I, 464; The law of 1702 provided for the collection of the ministerial rates but not for the money needed for the expenses of building meeting houses. Provision was made for such expenses in the law of 1718. (Province Laws, II, 99).

The resisting power of the Quakers seems to have grown concomitantly with the centralization of the provincial government. When the General Court assessed the two most obstinate towns, Dartmouth and Tiverton, one hundred pounds and seventy-two pounds, eleven shillings, respectively, the selectmen, in accordance with their instructions from the town meeting, defied the provincial government by refusing to make the levy. The assessors were imprisoned by the provincial authorities; whereupon the town proceeded to vote indemnification for the period of their incarceration and to appeal to the Crown in behalf of the prisoners. The Crown ordered their release and the remission of the tax in 1724. The established Congregational church never fully recovered from the effects of that action by the Crown.[25]

The Quakers, who had made the first breach in the seemingly impregnable position of the Congregational church, were reënforced by the Baptists and the Episcopalians. Jealousies among these dissenters prevented a union of their forces, but their simultaneous attacks had practically the same effect as if they had coöperated.[26] From 1724 to 1833 the Congregational church made a masterly retreat, until the other denominations in the commonwealth were on an equal footing with it. The tracing and appraising of the forces that brought about this change, especially for the period from the middle of the eighteenth century to 1833, is the object of this study. It is a chapter in the history of the development of individual freedom.

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[24] Province Laws, II, 26–27, 243.

[25] Acts of the Privy Council, 1720–1745, 58, 59, 121; Reed, 31–32, 116, 122, 126; Jones, Quakers in the American Colonies, 155; Province Laws, II, 296; Foote, Annals of King's Chapel, I, 442–443; Backus, I, 500ff.

[26] Foote, I, 444–446; Christian Disciple, 1820 (new series) II, 258; Lord Acton, History of Freedom, 1, 59. The Christian Disciple was a Unitarian publication. The writer in it ascribed the gradual "liberation from ecclesiastical domination," at least in part, to the opponents of the Congregational church.

After it had been demonstrated that the Quakers could not be compelled to pay the religious taxes, the next step was for the authorities of the province to define the term "Quaker" in such a manner as to give the least opportunity for tax evasion by those who might for reasons, other than conscientious scruples against an established church, attempt to evade them. Although the Episcopalians were anxious to gain exemption from the taxes, they could not consistently claim conscientious scruples against an established church. They did, however, have many friends in the mother country who could bring pressure to bear upon the authorities there. [In 1727 they were granted a measure of relief by law.[27] An Episcopalian who lived within five miles of a church of his own type and who usually attended the worship was granted the privilege of having the money which he paid for religious taxes made available for the support of his own religious teacher. All such parishioners were also granted exemption from the taxes levied for the purpose of building meeting houses for the Congregational church. The law was to be in force for five years and did not affect the Boston area.

In 1728 a law passed for the benefit of Quakers and Baptists granted them exemption from the poll tax for the support of ministers of the Gospel if they had conscientious scruples against an established church and if they lived within five miles of a meeting house of their own denomination, in which they usually attended the worship. The justices of the peace were authorized to name certain members of these denominations to furnish lists of the names of all their members in the several towns.[28] The property of such Quakers and Baptists was exempted from ministerial taxes by an amendment to the law in 1729.[29] Two years later the Quakers were granted exemption from the taxes levied for the purpose of building meeting houses for the Congregationalists. At that time the five mile limitation was removed for them.[30] In 1735 the Baptists were granted the same privileges, with a specific stipulation that the exemptions were not to be effective in newly chartered towns until they were incorporated[31]—in other words, until the Congregational meeting house had been completed and the minister installed. Since, in order to take advantage of the charter privileges in a new town, the original settlers were always required to build a meeting house and settle a minister, the General Court no doubt decided that it would be an injustice to give privileges to any who could evade the obligations. As we shall see, this restriction of privileges in new towns was to lead to another appeal to the Crown.

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[27] Province Laws, II, 459–460, 477.

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[28] Ibid., II, 495–496.

[29] Ibid., II, 543–544.

[30] Province Laws, II, 619–620; Acts of the Privy Council, Colonial series, 1720–1745, 491–492; Mass. Hist. Soc. Collections, 6th series, VI, 82. When the committee of the Privy Council investigated the law in 1736 it would have recommended the disallowance of it but for the fact that it was about to expire. The argument against it was that according to the charter the exemption should not have been "confined to Quakers." The governor was instructed not to assent to such legislation in the future.

[31] Province Laws, II, 714–715.

These new laws made readjustments necessary. In at least one town there were so many Quakers and Baptists that the other inhabitants found it difficult to maintain a Congregational church.[32] In all the towns where members of the dissenting denominations[33] lived, the laws added an extra burden for the other inhabitants. This naturally created prejudice against those who qualified for exemption. It was not impossible for Baptists and Quakers to gain an economic advantage by means of the exemption, but it is also conceivable that some of them made greater contributions for the support of their own form of worship than were required of those who paid the religious taxes.[34] Although the Baptists and Quakers generally made less ample provision for religious instruction than the Congregationalists, the fact that their congregations were generally smaller made the burden for each member greater in proportion. Finally, it should be kept in mind that to maintain two meeting houses and two ministers in a small town increased the total cost of religious instruction.

In 1735 the five mile limitation was removed for Episcopalians. They, however, were not granted complete exemption from the religious taxes, because they were not conscientiously opposed to an established church. (They were exempt only from the taxes for the purpose of building meeting houses. See above, page 14.) They paid the taxes for the support of worship, but, upon obtaining certificates signed by the proper officials in their church, showing that they attended the worship, their religious teacher was entitled to receive the money which they had paid.[35] No one was granted the privilege to absent himself from all religious instruction.

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[32] Partridge, History of Bellingham, 79.

[33] The Baptists, Quakers, and Episcopalians were the more prominent dissenting denominations in the province. The established church was Congregational.

[34] Chalkley, Journal and Collection of Works, 368. He makes the point that Quakers paid more to maintain their form of worship than the members of the Congregational church were required to pay.

As the exemption laws expired they were reënacted; the law of 1731 for the Quakers, in 1737, for ten years, and the law for the Baptists, in 1740, for seven years.[36] In 1747 both were reënacted for ten years.[37] The authorities in the province were not converted to the idea of religious freedom, but were moved by fear of intervention by the Crown.[38] On the other hand, the power of the Quakers and Baptists grew with their freedom. For them each new privilege gained was a signal for the attack on the next obstacle in the path which led to complete religious freedom.

The charter of 1691 and the philosophy of the time had made the defense of the establishment difficult even before the Crown intervened in behalf of the dissenters. The system of special privileges and exemptions which came as a result of that intervention made the defense still more difficult. All those who were more interested in the economic advantage gained by joining the denomination that furnished the legal minimum of religious instruction than in the religious worship, as such, were tempted to go shopping for their religion. If there were "avaricious and dissolute persons who got under the water (referring to baptism by immersion) to wash away minister's rates, without any desire of washing away their sins," it was, at least in a measure, due to the system.[39] It should not be inferred, however, that the opponents of the established Congregationalist church were in the majority. No doubt there was a large majority in the province that favored the tax supported church, just as the majority at the present time is probably in favor of tax supported education.

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[35] Province Laws, II, 782–783; Debates of the Convention of 1820, 367.

[36] Province Laws, II, 876–877, 1021–1023.

[37] Ibid., II, 362.

[38] Russell, The Review of American Colonial Legislation by the King in Council, 198; Acts of the Privy Council, Colonial series, 1720–1745, 58, 59, 491–492.

The attacks from the outside were not the only embarrassments encountered by the Congregational church after 1691. The attempts to break down the rigid theological system from within were as old as the system itself. Every generation produced its Roger Williams and its Anne Hutchinson. These were generally restrained and their ideas suppressed until 1699, when the liberals in Boston organized the Brattle Street church, in a more or less irregular manner.[40] In that church two innovations were introduced: by the first of these the public "relation" of the religious experience of regeneration was omitted from the qualifications for church membership; by the second, "all baptized adults who shared the minister's support" were given the privilege of voting at his election. Two years after the founding of that church the conservative Increase Mather failed to secure the presidency of Harvard College. After losing interest in Harvard, the conservatives assisted in the founding of Yale in 1701.[41]

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[39] Foote, I, 445 note. He quotes the Boston Evening Post for May 17, 1773. See also Massachusetts Archives, XIII, 60–65.

[40] Parrington, The Colonial Mind, 109, quotes Cotton Mather on the founding of the Brattle Street Church.

A new theory of church polity was introduced at this time, in the Connecticut Valley region, in the church of the Reverend Solomon Stoddard. He advanced the theory "that the Lord's Supper is a saving ordinance designed for all those, whether regenerate or not, who were of the covenant fellowship of the church by Christian parentage and baptism."[42] Mather led the faction that opposed Stoddard's theory as well as the Brattle Street church innovations. He believed in limiting the voting privilege in church affairs to the regenerate who could give a satisfactory "relation" of their experience. His faction developed a scheme for an association or consociation of churches in the province, but the more liberal and the more democratic leaders in the Congregational church successfully opposed it. The Mather group was losing control in Massachusetts.[43]

Factions within and the attacks from without greatly reduced the prestige of the Congregational church in Massachusetts during the first quarter of the eighteenth century. This naturally aroused the ecclesiastical authorities to action. They made application to the General Court for a synod; but the Baptists, Quakers, and Episcopalians in the province, together with the political authorities in the mother country, frustrated the design. The day of ecclesiastical domination seemed to be passing. The dissenters, who were just gaining their freedom from the religious taxes for the support of Congregationalism, scented oppression in any scheme which to them seemed to have no other object than the rehabilitation of the Congregationalist machine in provincial politics. Walpole, as prime minister in England, had problems enough without introducing the religious issue into imperial politics.[44]

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[41] American Society of Church History, Papers, V, 77–78; Walker, Ten New England Leaders, 207–208; Walker, History of the Congregational Churches, 200–201. Walker says the Brattle Street church "was clearly un-Congregational when judged by the standards of American usage."

[42] American Society of Church History, Papers, V, 78.

[43] Ibid., 78–79; 2nd series, III, 154; Backus, I, 417, 464–465; Dexter, Congregationalism, 494–497, 501; Adams, Provincial Society, 121. The arguments of the Reverend John Wise of Ipswich against the association scheme were printed and widely circulated just before the American Revolution.

The fourth decade of the eighteenth century ushered in the Great Awakening, which, by still further reducing the prestige of Congregationalism, played an important rôle in the development of individual freedom in religious affairs. The first quarter of the century had been a period of religious and moral decline. It was distinctly an age of materialism.[45] Following that decline came the Great Awakening in America and the Methodist movement in the mother country. The revival in America seems to have begun in Northampton in the Connecticut valley in the church of the Reverend Jonathan Edwards.[46] Edwards thought the people in that region were "freest by far, of any part of the country, from error, and variety of sects and opinions." He suggested as a reason why the people in that region were not "so corrupted with vice" the fact that they were "so far within the land at a distance from sea-ports, and in a corner of the country, . . ." He commended his people "for their distinct knowledge in things that relate to heart religion and Christian experiences."[47] Apparently in Edward's mind the revival was a reaction against the commercialism, materialism, and rationalism which centered in Boston.[48]

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[44] Church History of Massachusetts, Documents, 170–190; Reed, 174; Clark, Congregational Churches in Massachusetts, 146; Hutchinson, History of the Colony of Massachusetts Bay, II, 291ff.; Backus, I, 505ff.; Cross, The Anglican Episcopate, 67–76.

[45] Walker, The Sandemanians of New England, 134; Clark, Congregational Churches in Massachusetts, 140; Backus, I, 457–463; Cambridge Modern History, VI, 78.

[46] Palfrey, History of New England, V, 4; Tracy, The Great Awakening, ch. i.

The Northampton revival attracted attention in all parts of the province. The Reverend Benjamin Colman of the Brattle Street church in Boston sent an account of it to the mother country and invited the Reverend George Whitefield to visit New England.[49] Whitefield, who was twenty-six years old at that time, had been ordained in the Anglican church, but when he came to Boston in 1740 the pulpit of King's Chapel was not opened to him—a fact that made him no less popular with the ministers of the Congregational churches in that region.[50] He preached to immense audiences in the Congregational churches and on Boston Common. From Boston he went to the other towns in a religious campaign that brought all New England into the throes of the movement. In his wake followed the more extreme emotionalists, Gilbert Tennent and James Davenport, who carried "enthusiastic" religion to an intensity which brought discredit upon the whole movement. Davenport, when apprehended for his actions, escaped conviction because the jury pronounced him *non compos mentis*.[51]

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[47] Edwards, A Faithful Narrative of the Surprising Work of God, 2–3.

[48] Compare Adams, Provincial Society, 121ff., 133ff., and 254ff.

[49] Walker, History of the Congregational Churches, 256; Sprague, Annals of the American Pulpit, I, index for Benjamin Colman.

[50] Beardsley, Life and Correspondence of Samuel Johnson, 104.

The excitement was intense; hundreds were affected by the fervent enthusiasts who seemed to enjoy the strange scenes as evidences of the working of the Spirit. The Reverend Jonathan Parsons of Lyme, Connecticut, wrote:

> "We are not without our comforts in this town: the neighboring society . . . is generally very deeply affected. Perhaps there are 60 families in the place, & there are more than 120 persons deeply concerned for their souls. I saw one evening lecture there about 100 persons in tears together & about 30 of them, I thought, resembled those that received sentence of condemnation from the great judge & were going away to the execution; . . ."[52]

From the beginning of the revival movement there were Congregational ministers who opposed it, but their voices were unheard in the commotion. Whitefield himself severely criticised the ministers of the established Congregational churches and, on at least one occasion, asserted that many of them were not converted. He also severely criticised Harvard College.[53] Tennent, not to be outdone in this respect, characterized the ministers as

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[51] Colman Papers for September and October 1740, especially October 7; Palfrey, V, 6–7; Foote, I, 504ff.; Tracy, 87–88, 248; Adams, Provincial Society, 281ff. In the person of Gilbert Tennent the Great Awakening in New England is related to the revivals which took place among the German Pietists in Pennsylvania. See Adams, 278–279.

[52] Colman Papers, April 27, 1741; Tracy, 151, 153, 221, 248; Lewis, History of Lynn, see the annals for March 11, 1742.

[53] Tracy, 90, 95, 97; Boston Gazette, April 13–20, 20–27, and May 18–25, 1741.

> "Hirelings; Caterpillars; Letter-Learned Pharisees: Men of the craft of Foxes, and the cruelty of Wolves; plaistered Hypocrites; Varlets; Seed of the Serpent; foolish Builders, whom the Devil drives into the Ministry; dry Nurses; dead Dogs that cannot bark; blind Men; dead Men; Men possessed of the Devil; Rebels and Enemies of God; Guides that are Stone-blind and Stone deaf; children of Satan, . . . murderous Hypocrites . . ."[54]

Both his language and his actions played into the hands of the opponents of the revival movement. Even those who favored emotional religion were unwilling to see the revival carried to such lengths.[55]

High-tensioned religion was followed by a reaction. When it came there were many in the Congregational Church who were interested in conserving the good that they thought had come with the Great Awakening. These still hoped for a "heavenly shower," which they felt was sorely needed. Moreover, the fervor and enthusiasm developed by the revivalists generated lasting convictions and prejudices which augured ill for the Congregational church in the province. Edwards, though admitting the dangers of emotionalism in religion, was convinced that the good derived from the revival more than counterbalanced the evil which accompanied it. His "Thoughts on the Revival of Religion" was the best statement of the case of the pro-revivalists. The opposition was ably led by the Reverend Charles Chauncey, whose "Seasonable Thoughts on the State of Religion in

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[54] Chauncey, Seasonable Thoughts on the State of Religion, 249.

[55] Tracy, 116, 120, 242–243.

New England" was the most effective argument of the anti-revivalists.[56]

In 1743 the convention[57] of ministers of the Congregational church went on record against the revival movement in a document signed by the moderator "in the name and by the order of the Convention." It soon became evident that the members of the convention had been far from unanimous on the subject; that the pro-revivalists had been temporarily outwitted by their opponents. They called a special convention in which they gave their testimony on the "late happy Revival of Religion in many parts of the land." They admitted that there were many who did not "see things in the same light." They also took the occasion to send out a warning against the dangers of the Arminian heresy. Their testimony was signed by more than three score ministers, at least nine of whom were from Boston. Each faction had now issued its manifesto; the alignment was growing more and more distinct.[58] When Whitefield came to Boston the next year on his second visit, ministers and laymen were divided in their attitude toward him as well as toward the whole movement. Upon Colman's invitation he administered the sacrament at the Lord's Supper in the Brattle Street church. This was followed by protests on the grounds that Whitefield was ordained in the Anglican church, that he was an itinerant, and that he had ill-treated the ministers of the Congregational church as well as Bishop Tillotson of the Anglican church. The stage was set for another religious controversy. Each side seemed anxious for the conflict.[59]

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[56] Palfrey, V, 19, 22; Dunning, Congregationalists in America, 258–259; Walker, History of Congregational Churches, 260ff. Edwards published his "Thoughts" in 1742, Chauncey in 1743.

[57] Tracy, 286. The author says, "The General Convention of Congregational Ministers in Massachusetts obtained its form and official character gradually. It grew out of the custom of visiting Boston on the day of the opening of the colonial legislature." Matters of general interest were discussed and a sermon was preached by one of the ministers. A book for records was ordered in 1748.

[58] Tracy, 286ff.; Palfrey, V, 21; Walker, History of the Congregational Churches, 263; American Society of Church History, Papers, 2nd series, III, 159ff.; Ellis, Half-Century of Unitarian Controversy, 23ff. Those who opposed strict Calvinism were called Arminians, but it is very doubtful if they should have been named after the Dutch theologian. The name seems to have been used to stigmatize them. Fifteen of the signers of the testimony concurred in it except for the article on itinerancy. They thought the convention should have testified against it in stronger terms.

By the end of the year 1744 several newspapers, two ministers' associations, and the faculty of Harvard College had taken a definite stand against Whitefield. Under these attacks he attempted to bring about a reconciliation, but his efforts were in vain. While Chauncey's attacks were spirited but reasonable, many of the pamphlets issued during the controversy by both sides manifested a bitter partisan spirit.[60] The second visit of Whitefield was an anticlimax. In 1747 the pro-revivalists made another attempt to enlist all religious people in their program. A call was sent out over the signatures of Joseph Sewall, Thomas Prince, John Webb, Thomas Foxcroft, and Joshua Gee. Edwards was interested in this scheme, which, nevertheless, failed to bring the two factions of Congregationalism together. Schism had already made its appearance in another form.[61]

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[59] Tracy, 322, 344; Palfrey, V, 22–25; Belcher, Whitefield, 261; Quincy, History of Harvard University, II, 40ff.; Blake, The Separates, 40–42, 136–137; Massachusetts Historical Society Proceedings, LII, 300; Clark, 178; Pateshall, Pride Humbled etc. The pamphlet by Pateshall shows some of the worst features of the controversy.

[60] Tracy, 343–344; Belcher, 259; Lewis, History of Lynn, 161; Lewis and Newhall, History of Lynn, 327.

[61] An Humble Attempt to Promote Explicit Agreement and Visible Union of God's People etc.

When, in 1742, the pro-revivalists gained control of the organization of the Second or North church in Boston, the minister, the Reverend Samuel Mather, and the minority of the church members who were opposed to revivalism, seceded and formed the new Tenth church. Other Boston congregations also had dissatisfied minorities. In 1748 these minorities left several of the Boston churches to form the new Eleventh church. The Tenth church was an anti-revivalist Congregational church; the Eleventh was pro-revivalist. In Boston each faction felt justified in breaking away from the congregation if it disagreed with the majority. This created a new problem for the political and ecclesiastical authorities. When the Eleventh church was organized it called the Reverend Andrew Croswell, a militant revivalist, for its minister. He accepted the call, but several prominent Boston ministers refused to assist in his installation, giving as their reasons for refusing the following: the new church was composed of the disaffected members of other congregations; multiplication of churches in Boston should be avoided; Croswell had been a supporter of James Davenport and had himself called some of the ministers Arminians. Croswell replied to the charges in a pamphlet in which he stated his position in favor of strict Calvinism and revivalism. He contended that his church in Boston was a "distinct" church but not a "Separate" church.[62] By the term "distinct" he meant a new regular Congregational church as opposed to a new church formed outside of the regular Congregational church.

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[62] Croswell, A Narrative of the Founding and Settling in the New-Gathered Congregational Church in Boston; Tracy, The Great Awakening, 254.

The "Separate" churches had originated in Connecticut, where the anti-revivalists, having the political power in their hands, drove the revivalists out of the established church.[63] The revivalists formed their own organization, after which they were called "Separates." From Connecticut the "Separates" carried their organization into Massachusetts. Generally the prejudice against "Separates" or "New Lights" (so called because they claimed that they had received new light through revelation) was even greater than against Baptists and Quakers. For that reason, no doubt, Croswell insisted that his church was not a "Separate" church.[64]

In Boston, where the voluntary system of support prevailed, it was possible to form "distinct" Congregational churches without a special permit from the General Court or the town meeting, but in most of the other towns this was impossible. The "Separates" outside of Boston were compelled to pay the religious taxes for the established church even after they had left it. That created tense feeling between the "Separates" and the regular Congregationalists. In many cases the "Separates," in order to avoid the religious taxes, joined the Baptists. This combination of "Separates" and Baptists boded ill for the established church because it strengthened a denomination which had long been opposed to an established church. Moreover, the Congregationalists also lost some of their members to the Episcopalians. In some churches the anti-revivalists compromised with the revivalists and offended the irreconcilable anti-revivalists, who then joined the Episcopalians. Both the extreme right wing and the extreme left wing were leaving the established church to join with the dissenters in opposing the establishment.[65]

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[63] Walker, History of Congregational Churches, 261–263. Students of Yale College were expelled for attending meetings of "Separates" with their parents.

[64] Greene, Development of Religious Liberty in Connecticut, 239; Walker, History of Congregational Churches, 261, 280; Tracy, 302ff., 315ff., 320, 350, 390; Brooks, History of Medford, 234; Beardsley, Life and Correspondence of Samuel Johnson, 199–200. The regular Congregationalists were called "Old Lights" after the Great Awakening to distinguish them from the "New Lights." The prejudice against Quakers is manifested in the "Testimony" of the Harvard College faculty against Whitefield. It is stated that Whitefield's orphans were left to the care of one who was "little better than a Quaker."

The "Separates" or "New Lights" were the radicals of the left wing—their ministers and elders were granted no greater authority in the church organization than lay members. "Knowledge of tongues and liberal sciences" was not considered a necessary qualification for religious teachers. All those who had the gift should, according to their standards, be allowed to preach. The sacraments were reserved for converted believers; the Stoddardean theory of the Lord's Supper was pronounced heretical. Finally, by accepting "the Spirit of God in his written Word" as their guide, they cast aside tradition and authority of the Congregational church and appealed to a higher authority which gave them light through revelation.[66]

Another important phase of the religious situation in Massachusetts in the middle of the eighteenth century was the attempt of the Episcopalians to get a resident bishop in America. This had been a constantly recurring issue since the founding of King's Chapel in the last quarter of the seventeenth century. It affected the relation between the province and the mother country as well as the relation between the Congregationalists and the Episcopalians in the province. This subject will be treated in another chapter.

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[65] Cobb, Rise of Religious Liberty in America, 278–279; Palfrey, V, 41; Greene, Foundations of American Nationality, 272–277; Platner, Religious History of New England, 46–48, 156–157, 226–227; Beardsley, 103–107, 119–120, 245. The Reverend Samuel Johnson of the Episcopal church wrote, "The quarrels of the Dissenters among themselves, especially, occasioned by the late enthusiasm, contributed vastly more to drive honest thinking people into the Church than any endeavors of the clergy to make proselytes."

[66] The Result of a Council in Windham County, Connecticut.

The different religious denominations and factions in the province in 1750 might be classified under the following four heads:

I. Churchmen, Anglicans, or Episcopalians
II. Quakers
III. Baptists (Called Anabaptists in the legal language of the time)
IV. Congregationalists (The Congregational church was the established church in the province)

The last denomination should be divided into two groups on the basis of theology and two groups on the basis of their attitude toward the Great Awakening.

Theologically	Strict Calvinists Moderate Calvinists (Sometimes called Arminians by their opponents)
Divisions due to the Great Awakening	Anti-revivalists or "Old Lights" Revivalists or "New Lights"

The tendencies in the Congregational church may be further illustrated by the following diagram which shows the attitude of four more or less prominent religious teachers of the time on the issues. Each one claimed to be a Congregationalist.

Name	For revivalism	For Calvinism	For separatism
Charles Chauncey	no	no	no
Benjamin Colman	yes	no	no
Jonathan Edwards	yes	yes	no
Andrew Croswell	yes	yes	yes

Although the Quakers, Baptists, and Episcopalians had not obtained, by the middle of the eighteenth century, all the privileges for which they had been striving, the problem of dealing with them could be postponed. The issue that could not be postponed was the struggle of the "Separates" for legal recognition and exemption from the religious taxes.

In the seventeenth century, when the Pilgrims and the Puritans came to Massachusetts, every nation in Western Europe had an established church. The Puritans never opposed the established church in theory. When they came to Massachusetts they were not inconsistent in making their church the state church in their colony. In fact the church and state relations in the Bay Colony were even closer than in England. The Pilgrims believed in a greater degree of freedom for the individual, but were not unwilling to admit that the civil government had some authority in religious affairs. The second generation in Plymouth accepted an established church, but coercion in religious affairs was less evident than in the Bay Colony. When the two colonies were united in 1691 the legal status of the church was practically the same in both. King William demanded toleration for all Christians except Papists in the charter which he granted in 1691. However, since the Congregationalists were a majority in the province they could make laws to maintain their establishment. When some of the towns refused to carry out the laws the provincial government intervened in behalf of the Congregational church. The resistance of the Quakers grew with the efforts to coerce them. When the town officers who refused to carry out the compulsory tax laws were imprisoned, an appeal to the Crown sustained the Quakers in their contention. The intervention of the Crown marks the beginning of disestablishment. The Congregationalists were so well intrenched that they were able to postpone the final disestablishment for over a century. In the meantime the religious liberties of the individual were extended. During the fourth decade of the eighteenth century the Great Awakening brought division into the ranks of Congregationalism and materially reduced its prestige. More and more people refused to pay the religious taxes. Some of them left the established church to join one of the dissenting sects, which, under certain conditions, had been recognized as exempt from the taxes. The exemption laws were temporary expedients, for the civil and ecclesiastical authorities did not recognize the right of the individual to decide whether he would pay the religious taxes or not. The intervention of the Crown made the expedient necessary. The philosophy of the time seemed to be against an established church.

CHAPTER II

"SEPARATES," "SEPARATE-BAPTISTS," AND BAPTISTS FROM 1750 TO 1774

The commotion caused by the Great Awakening had, to a great extent, subsided before the opening of the second half of the eighteenth century. The center of the arena was, by that time, occupied by "another fervid excitement" which was predominantly political — the struggle between France and Great Britain, who were crossing swords to decide the fate of a vast colonial empire in America and India. In Massachusetts even that combat was not without its religious aspect (it was made to appear that it was a conflict between Puritanism and Romanism), but the ruling passion of the time was clearly political. Contemporary writers agree that it was a time of decadence in morality and religion.[1]

With a world war on the horizon local issues were, in a large measure, postponed; but one issue, the legal status of the "Separates," even a world war could not postpone. They had left, or were leaving, the established Congregational church to build an organization of their own, fully convinced that it was their duty to follow the "New Light" which they had received. The cold intellectualism of the dominant element in the established church was an evidence to them that the Spirit of God had left it. As a result of that conviction they refused to pay taxes for its support. Here, then, were Congregationalists who agreed in most respects with the doctrines and polity of the established church (in some cases disagreeing only in their attitude toward revivals in religion), but they demanded exemption from the religious taxes on the ground of personal conviction. The political and religious leaders of the province were no doubt right in thinking that if the establishment rested on nothing more secure than personal conviction its foundation was in peril. They were on their guard against any such danger.[2] The issue was not unlike one that might arise in our time, if fundamentalists should refuse to pay toward the support of the educational system on the ground that modernism is taught in the schools.

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[1] Palfrey, History of New England, V, 24, 110ff.; Plymouth Church Records, April 15, 1750 and April 4, 1751; Church History of Massachusetts, Documents, 418; Baird, Religion in America, 101; Boston Gazette, Aug. 14, 1750; Jan. 1 and 8, 1751; June 2, 1755; Jan. 22 and Sept. 24, 1759; Feb. 9 and Mar. 9, 1761. Some writers were inclined to believe the war was responsible for the decline in religion, but others were convinced this was due to the reaction which followed the Great Awakening. Fanaticism and immorality seem to have been concomitants of the "New Light" movement in some regions. See Chaffin, History of Easton, 174ff., and Backus, History of the Baptists, II, 446. For another viewpoint see, The New England Quarterly, III, 133-135.

All the laws which had been made to exempt Baptists and Quakers were strictly limited to those who had conscientious scruples against a religious establishment. These exemptions, granted to small groups, did not threaten the established church as much as the granting of exemption to "Separates" would have threatened it, because the "Separate" movement affected the masses in some parts of the province. But there were other factors that entered into the conflict between "Separates" and the established church. The prejudice against them was much sharper than that against the Baptists and Quakers. Members of the established church felt it was their duty to compel their erstwhile brethren to come back into the fold. Then, too, Baptists and Quakers were accustomed to a minority position, but "Separates," who had been members of the dominant church, were not easily persuaded that their liberties should be curtailed simply because they had seen "New Light" and were willing to accept it.[3] Whitefield himself had given them a new theory of the purpose of "Canons and other church laws" when he argued that they were "obligatory" only

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[2] Blake, The Separates, chs. ii, iii, especially 58, 59; Mass. Archives, XIV, 596; Purcell, Connecticut in Transition, 5ff.; Debates of the Convention of 1820, 576–580.

> "when conformable to the laws of Christ and agreeable to the liberties of a free people; but when invented and compiled by men of little hearts and bigotted principles . . . and when made use of only as ends to bind up the hands of a zealous few, they may be very legally broken."[4]

As the religious conflict developed the "Separates" tended to get farther and farther away from the established church. From the beginning they moved toward the position of the Baptists. The pressure that was brought to bear upon them from the outside accelerated this movement. Both were minority groups; both were generally Calvinistic; both believed in limiting church membership to converted believers; both appealed to the Bible as the fundamental basis of authority; both were more democratic than the established church. The chief points of difference between them were two:—the Baptists were recognized by law and baptized adults by immersion, whereas the "Separates" were not recognized by law (except as members of the established Congregational church) and were accustomed to infant baptism.[5] The "Separates" could, by accepting immersion, be classed as Baptists and gain exemption from religious taxes. Probably a considerable number chose immersion as the lesser evil. The effect of this anomalous situation is summarized by one Congregationalist historian, who wrote:

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[3] Contributions to the Ecclesiastical History of Connecticut, 121. The Reverend Peter Thacher of Attleborough consigned all "Separates" to hell. See also Province Laws, IV, 1038; Conn. Colonial Records, VIII, 569; Conn. State Records, I, 232; Concord Town Records, May 16, 1745; Boston Gazette, July 2, 1751; Results of a Council in Windham County, Connecticut.

[4] Baldwin, The New England Clergy and the American Revolution, 57. The author quotes from Whitefield's Works.

> "Of the forty-five Congregational churches in Massachusetts that sprang into life during the ten years now under review (1740–1750), eight or nine had their origin in the spirit of separatism; while more than twice as many others originating in the same spirit, grew at length into Baptist churches."[6]

The economic factor was an important element in the church and state relations in the province from the beginning. Cotton Mather referred to it in the following language:

> "If ministers in this countrey, from the very beginning of it, might have their complaints heard, they would complain of extream temptation attending them in the business of their maintenance. The people being, as one of the ancients expresses it (chaffering and higgling

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[5] It should be mentioned that it was the members in the established church who had most in common with the Baptists who were involved in the "New Light" movement. See Mode, Source Book of American Church History, 288.

[6] Clark, Congregational Churches in Massachusetts, 160–161; Chaffin, History of Easton, ch. xii; Hovey, Life and Times of Isaac Backus, 171; Backus, History of the Baptists, II, 426; Mass. Hist. Soc. Collections, 1st series, III, 152. Backus admits that some were baptized "so as to obtain an exemption from taxes to Congregational ministers."

> in religious concerns), have many times been content, that their pastors be accounted rather the stars than the lamps of the churches, provided, like the stars, they would shine without the supply of any earthly contributions unto them.. . .
>
> "The best ministers of New-England have generally been Calvinists, in respect to that contempt of riches which the great Calvin expressed . . . But they have not all enjoyed the competent and moderate subsistence, . . . while the law has exempted them from taxes, they have in reality been taxed above any one rank of men, . . ."[7]

From this statement one may conclude that the "Separates," while they may have complicated the economic problems of the established church, did not create them. When they pretended to be Baptists, or when they really became Baptists, as many of them did, they were not infrequently challenged by assessors and collectors who refused to recognize them as Baptists with conscientious scruples against an established church. Nor was it an easy matter for a judge or justice of the peace to decide whether an immersed "Separate" should have all the legal rights of a Baptist. In Haverhill, for example, it was decided, after prolonged litigation, to grant exemption from the church rates to all those who had been baptized by immersion. This gave rise to the accusation that "Separates" had themselves "dipped to wash away their taxes."[8]

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[7] Magnalia (edition 1853), II, 491–493. The part in parenthesis is given as translated in a footnote.

[8] Chaffin, History of Easton, 182–183; Chase, History of Haverhill, 552–553, 578–579; Mass. Archives, XIII, 374. The author of the His-

It should not be inferred that the economic problem in religion was peculiar to any denomination in the province.[9] The dissenters were generally willing to pay for such religious instruction as they thought necessary, but were unwilling to have the standards of religious instruction imposed upon them by the civil authorities in the province. On the other hand, the religious and political leaders in Massachusetts were not ready to permit the individual congregation to set its own standards. They believed, as many people do at the present time in the matter of compulsory education, that standards should be fixed by the state. But they also had to take into account the possibility that "Separates" might appeal to the Crown as the Quakers and Baptists had done.

Even though the laws for the support of religion could have been adjusted in the older towns in the province, the new towns had a much more difficult problem. When the General Court granted a charter for a new town to a group of proprietors, a stipulation always made called for the building of a meeting house and the settlement of a minister of the Gospel. The proprietors were, in a sense at least, speculators in western lands, and the cost of maintaining religious instruction was one element in the venture. If a member of one of the dissenting sects happened to be a proprietor or an early settler in one of these new towns, it seemed but reasonable that he should pay

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tory of Easton concluded that opposition to church rates was a more important factor in the growth of the Baptist church than either faith or practice. He says the Baptist society in the town ended with the abolition of the compulsory tax system.

[9] Mass. Archives, XIII, 156. The Reverend John Rogers of Boxboro was still pleading to the General Court in 1750 for his salary which the court of sessions had ordered the town to pay him ten years before. See also, Mass. Gazette, Dec. 27, 1770.

his share toward the fulfillment of the stipulations of the charter. But if such a settler wanted to attend worship in a church of his own denomination he had two churches to support. This was not unlike the parochial school problem of the present time. The Baptists seem to have been especially anxious to take advantage of the opportunities for pioneering; their presence in new towns led to prolonged litigation, terminating in an appeal to the Crown.[10] In view of the fact that the proprietors in new towns, as land speculators, had to compete with those of other towns, it was to their interest to keep the tax rate as low as possible. Many of these new towns found it extremely burdensome to comply with the stipulations of their charters. Town after town appealed to the General Court for aid in some form or another. One form of such aid was to permit the town to tax the land of non-residents, who generally held it for speculative purposes. In 1754 Rutland was granted the right to tax such lands at the rate of one halfpenny per acre.[11] Holden petitioned at least twice for the privilege.[12] Belchertown, Sturbridge, Greenwich, Sutton, Lanesborough, and New Braintree made similar appeals.[13] Ware River petitioned for the remission of the whole province tax, on the ground that it needed the "assistance to gitt thro' the charge of settling a minister."[14] From these documents one might be tempted to conclude that both Congregationalists and dissenters were unduly concerned about the economics of religion. Since pioneering always demands an unusual expenditure of human energy, one would have expected these pioneers to keep their burdens at a minimum, even if it had to be done at the expense of religious instruction. Few pioneer communities could boast of standards of religious instruction such as generally obtained in Massachusetts. The older towns set too high a standard for the less populous regions.[15] The "Separates" complicated the problem not only for the towns but also for the General Court. If the maintenance of one church in a new town was a financial burden, the maintenance of two was a still greater burden; but the "Separates" usually insisted on having their own.

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[10] Province Laws, II, 714–715; IV, 1039ff.; Mass. Archives, XIII, 272–274; XIV, 565ff. In Grafton some of the original proprietors sold their claims to dissenters who later claimed exemption from the religious taxes.

[11] Mass. Archives, XIII, 507–511.

[12] Ibid., 587–590; XIV, 47–49.

[13] Ibid., XIII, 594–604 (Belchertown); 423–424 (Sturbridge); 605–608 (Greenwich); XII, 472–474 (Sutton); XIV, 418–420 (Lanesborough); XIII, 774–775, 778–779 (New Braintree).

In the division of established towns or parishes the religious taxes were sometimes a prominent factor in the negotiations. When certain of the inhabitants of Lynn petitioned the General Court to be set off from the town in order to join another parish, the town meeting opposed the petition with the following argument:

> "We can't but think that the Crumbling of Towns into Small Parishes much more tends to Impoverish and Starve the Gospell then to Advance its Interest, & Especially in this Day, when

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[14] Ibid., XIII, 333; Acts and Resolves of Mass. Bay, Appendix XI, chap. 28. Provincetown at different times received direct aid from the General Court for the maintenance of their religious teacher. See Mass. Archives, XIII, 780–780a; XIV, 347, 389, 511, 572, 609, 716.

[15] The sale of land to obtain the taxes due upon it was not unusual. See Boston Gazette, Feb. 6 and March 20, 1753; April 9, 1754; Aug. 18 and Oct. 6, 1755; Nov. 27, 1758; Jan. 28, 1760; Smith, Religious Education in Massachusetts, 18–19.

> the Support of the Ministry is attended with greater Difficulty then ever."[16]

The Quakers, according to the argument, already numbered approximately one-third of the population of Lynn and were enlarging "their Borders" by "Daily Purchasing Land." As the Quakers purchased more land, the taxes increased for the members of the established church. Chelsea, too, objected to the petition for a new parish because the parish was to include a part of its land. One-sixth of the land in that town already belonged to Quakers and Episcopalians, one-fourth by or mortgaged to persons living outside of the town. Since none of these paid religious taxes in the town, the town meeting pointed out that the people were "at great charge in maintaining the gospel."[17]

In 1749 when Springfield was about to build a new meeting house, a part of the town brought a petition to be set off as a separate parish. The town meeting dismissed the petition, but, when the petitioners made another appeal, the committee of the town meeting presented the following statement of the case:

> "It's very evident by their Shewing that their Accomodations which they have obtained by being so far off from the Center of the Parish is more than a Compensation for the Fateagues on the Sabbath, for it is a very plain case that, if the rideing on Horse Back on a Plain six miles in half a Day is more than equal to half a Day's Labour the Petitioners upon the whole Live with much more Ease & Less Fateague, than those

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[16] Mass. Archives, XIII, 60–63; Clark, Congregational Churches in Massachusetts, 168–169. The first petition was sent in 1749.

[17] Mass. Archives, XIII, 64–65.

> who live in the center of the Parish; who besides the Fateague they have in managing their business at a Distance all the week, are obliged to build & maintain Three Large vessels to Transport the Produce of Their Lands to ye stores."[18]

The relation between maintaining ships to carry produce to market and attending worship at an inconvenient place was the proposition before the General Court. In their appeal to the General Court the petitioners gave their side of the case. Their argument was as follows:

> "With great Submission we Esteem it Extream hard that our fellow Parishoners Should make so great opposition as they do & have done to our being a Distinct Parish when they know all that is Said above to be true, only to make their Taxes a little lighter. We cannot think ourselves justly treated by them, when they take so much pains to keep us under Such Disadvantages in our Souls concern only to save themselves a little worldly interest."[19]

The General Court granted the petition, but the new parish did not complete its meeting house for fourteen years. Apparently those who had been so anxious to have their own parish had underestimated the difficulties which they were to encounter.[20]

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[18] Mass. Archives, XIII, 127; Palmer, Annals of Chicopee Street, 21–22; Green, Springfield, 1636–1886, 259.

[19] Mass. Archives, XIII, 120–121, 125–130; Palmer, 23–24; Green, Springfield, 259.

[20] Mass. Archives, XIII, 123; Palmer, 27–28; Clark, Centennial Discourse First Church Chicopee, 9–10. After the General Court had granted the petition for the new parish, those in the first parish who owned land in the new parish appealed for exemption from the taxes levied for the purpose of building the new meeting house.

The town meeting in Lunenburg planned to build a new meeting house in 1749. As soon as the report became public, some of the people of the town petitioned to be set off to be annexed to Groton and others to Leominster. From the arguments it appears that some of the petitioners were planning to emigrate from Lunenburg during the next year. They hoped to postpone the tax levy until after they had left the town. On the other hand, when the town meeting voted to raise three hundred pounds immediately, one suspects that the town laid its plans to get as much money as possible from those who would never have the opportunity to use the meeting house.[21]

In the preceding cases the "Separates" were not directly involved in the church and parish affairs. A few cases in which they complicated the problem will be outlined.

One of the first towns to feel the effects of the Great Awakening was Ipswich, a town in which there were two established churches when Whitefield first went there in 1740. Within seven years both of these churches had divided on the question of revivals, or "enthusiastic" religion. In one instance the faction that left the old church formed a "Separate" church, but in the other the "Separates" captured the organization in the old church, and the anti-revivalists left it to form their own church. The division was not accomplished without litigation and the imprisonment of some who refused to pay the church rates. The General Court recognized the new anti-revivalist church in 1747, after which its members were free from the taxes levied by the parish to which they had formerly belonged. The new "Separate" church, however, had to wait five years longer before the General Court favored it with such action. Apparently the General Court was less favorably inclined toward "Separates" than toward the anti-revivalists. It is interesting to note that, according to the tax lists, the "Separates" were generally the poorer people in the town.[22]

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[21] Mass. Archives, XIII, 5–17; Davis, Records of Lunenburg, 1719–1764, 138–145.

The town of Newbury was the scene of a peculiar development in the church and state relations, due to the Great Awakening. Those who favored Whitefield's type of religion formed a "Separate" church, which, after five years, adopted the Presbyterian polity. Neither as "Separates" nor as Presbyterians were the members of the church freed from the regular parish taxes for the support of the established church. The next generation inherited the prejudices that grew out of the division.[23]

The "Separate" churches were, however, not a permanent factor in the ecclesiastical history of the province. Their leaders were not capable of forming a strong organization, and since the sect grew out of the spirit of division it was extremely difficult to develop and maintain a unified church. The "Separates" also found it difficult to live down the record of enormities and immoralities which characterized them in some regions.[24] But, if these churches were not a permanent factor themselves, they were important as groups of people in a transition from the established church to one of the dissenting churches. After they had allied themselves with the Baptists, they formed a part of a very effective opposition to the established church. While in the transition stage the "Separate Baptists" raised many intricate problems for legislators and judges.

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[22] Mass. Archives, XII, 375–376, 492–501, 529–557, 646–647; XIII, 30–34, 39–48, 262–272, 333–341; Felt, History of Ipswich, Essex and Hamilton, 234–239, 247, 258–262, 266; Waters, History of Ipswich, II, 121–123, 132, 136–137; Crowell, History of Essex, 87–89, 164, 166; Backus, History of the Baptists, I, 416–417, 464, 480; II, 318; Bentley, Diary, IV, 14.

[23] Mass. Archives, XII, 506–515, 680–682, 712ff.; XIV, 465–466, 535–544; Currier, History of Newbury, 235, 381–383; Currier, "Ould Newbury," 508–525.

An excellent example of a "Separate" church as a group of people in transition can be taken from the history of Middleborough. The church and the parish, after having divided on the "New Light" issue, could not agree on a successor to the Reverend Peter Thacher, who died in 1744. An ecclesiastical council was called, and, though that was the proper procedure according to law and usage, the parish refused to accept its decision. It called a "New Light" minister and organized a "New Light" church as the regular church of the parish. It then taxed all the Congregationalists in the parish for the support of the "New Light" church. A majority of the church members refused to pay the tax. They had their own minister and preferred to maintain their own Congregationalist church. Litigation followed. The "New Lights" (the parish) won in the court of first instance, but lost in the higher court. The matter was then taken up by the General Court which gave to the people of the town the right to choose between the two churches, after which each group was to support its own worship.[25] In 1749, before the controversy was settled, ten persons were baptized, "so as to obtain exemption from the taxes to Congregational ministers." This was the beginning of the first Baptist church in an area one hundred miles long and fifty miles wide. In 1761 there were three Baptist churches in Middleborough.[26]

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[24] Blake, The Separates, chs. iv, v; Backus, II, 87–90; Hovey, Life and Times of Isaac Backus, 106–107, 171; Chaffin, History of Easton, 175–182.

[25] Mass. Archives, XIII, 90–101, 107–118, 151--55, 185–185a; Mass. Hist. Soc. Collections, 1st series, III, 148–151; Weston, Middleboro,

A "Separate" church, organized in Sturbridge in 1748, went over almost bodily to the Baptists during the following year, when "above three score persons" accepted baptism at one time. In January, 1750, two of the members of the Second Baptist church in Boston wrote a certificate to the assessors of Sturbridge to inform them that the members of the new church were recognized as Baptists. The assessors were supplied with a certified list of all the members of the new church. After thus fulfilling the requirements of the law for Baptists, these newly converted Baptists confidently expected exemption from the religious taxes. The assessors and collectors contested their claim on the ground that they were not in full fellowship with the Baptists in the province, a fact which the Baptist historian does not deny.[27] The town authorities undertook to collect the tax, with a result that is described in the following account by one of the persons concerned:

447–449; Spirit of the Pilgrims, II, 372ff.; Eddy, Historical Account of the First Church of Middleborough, 36ff. The parish later dismissed its minister, but he refused to be bound by its action. In order to restrain him from preaching in the meeting house the doors were nailed up. A council was called to sanction his dismissal and the church went out of existence.

[26] Backus, II, 426.

[27] Ibid., 94–96, 459; Newman, History of the Baptist Churches, 245–246; Blake, The Separates, 134–135; Hovey, 106–107, 329–333; Haynes, Historical Sketch of the First Congregational Church in Sturbridge, 13–16. Newman says this was the first large accession to the Baptists from the "New Lights."

"They stripped the shelves of pewter, of such as had it; and of others that had not that they took away skillets, kettles, pots and warming pans. Others they deprived of the means they got their bread with, viz., workmen's tools, and spinning-wheels. They drove away geese and swine from the doors of some others; from some that had cows; from some that had but one they took that away. They took a yoke of oxen from one. Some they thrust into prison, where they had a long and tedious imprisonment. One brother was called from us and ordained a pastor of a Baptist church, and came for his family; at which time they seized him and drew him away, and thrust him into prison, where he was kept in the cold of winter till somebody paid the money and let him out. A. Bloice had a spinning wheel taken away in 1750, and a cow in 1751. D. Fisk had five pewter plates taken away in 1750, and a cow in 1751. John Cory imprisoned, 1750. J. Barstow imprisoned, 1750. J. Pike, a cow taken, 1750. A cradle in 1750, and a steer in 1751, were taken from J. Perry. Trammel, andirons, shovel and tongs were taken from J. Blunt in 1750, and he was imprisoned the next year. John Streeter had goods taken away in 1750 and 1751; Benjamin Robbins, household goods and carpenters' tools. Household goods and a cow were taken from H. Fisk in 1750 and 1751. Josiah Perry was imprisoned in 1750, and a cow taken from him in 1751. Nathaniel Smith was imprisoned in 1750. David Morse was imprisoned and a cow taken away in 1750, and a yoke of oxen in 1751. Goods were taken from Phineas Collier in 1750 and 1751. John

> Newel, goods taken 1750 and 1751. John Draper imprisoned, 1751."[28]

While the "Separates" were merging with the Baptists, it was a difficult problem for the courts to determine their exact legal status. In the superior court the newly converted Baptists won one case, but other cases were non-suited on a technicality. The suits were brought against the collectors, whereas the court ruled that they should have been brought against the assessors.[29] This technicality cost the plaintiffs over one hundred pounds, according to one estimate. After the court had non-suited their cases the town meeting voted that the expenses of the suit should be defrayed out of the funds of the town. Those who felt they were oppressed thus were made to pay in part for their own prosecution. In order to insure the passing of this article it was attached as a "rider" to a more popular measure. Finally, the moderator of the town meeting was sent to the legislature and was instrumental in getting a law passed which denied exemption to "Separates" who were not in full fellowship with Baptists.[30]

The law of 1753 was enacted because many persons who were not Anabaptists (the name generally given to Baptists in the statutes) had obtained exemption under the old laws. Under the new law church membership, as opposed to attendance at worship, was made the basis for exemption. Only those whose names were on the assessors' lists as Baptists and those who had certificates given under the hand of a minister and two principal members of the church called Anabaptist could qualify for exemption. The minister and the two principal members were to certify that they conscientiously believed such person, or persons, to be of their persuasion and that such person, or persons, usually and frequently attended public worship in an Anabaptist church. No minister was qualified to sign the certificates until he himself had been recognized by certificates from three churches commonly called "Anabaptist." The law was to be in effect for five years. The assessors were to make out the lists of those who were known to be Baptists in the several towns, but those whose names did not appear on the lists could secure exemption by obtaining certificates signed by the minister and two principal members of the society to which they belonged. There was no penalty provided for assessors who omitted the names of Baptists or for those who made no lists at all.[31] Some of the assessors "would not trouble their heads about it," while others "snubbed" those who asked for recognition as Baptists. Furthermore, a newly organized Baptist church found it difficult to meet all the requirements for exemption. The Baptists, especially the newly converted ones, were scattered, so that in many cases it cost more to get the certificates than to pay the religious tax. The fact that certificates had to be renewed each year added to the inconvenience and expense. The Baptists, from the time the law was published, considered it another obstacle to be overcome.[32]

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[28] Backus, II, 94–96 note, 465 note 3; Haynes, 15 note. The town meeting tried to compromise with the so-called Baptists in 1752 by returning to them the property taken since the beginning of 1751. The Baptists demanded all their property back and the town refused to settle on that basis.

[29] Backus, II, 95; Newman, 246.

[30] Newman, 246; Backus, II, 85; Hovey, 170–172.

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[31] Province Laws, III, 644.

[32] Province Laws, III, 644; Mass. Archives, XIII, 496–506; Newman, 246–247; Foote, Annals of King's Chapel, I, 445; Partridge,

From a strictly legalistic viewpoint the law was justifiable, if an established church was to be maintained; but, from a practical viewpoint, it was against the interests of those who defended the established church, because it tended to drive the "New Lights" into the Baptist fold. It also hastened, if it did not cause, the organization of an association of Baptist churches. In these two ways it made the Baptist opposition more effective.

The publication of the law was a signal of alarm for the Baptists. Special meetings were held at Medfield, Bellingham and Boston, in 1753 and 1754, in order to organize to oppose it. A remonstrance was sent to the General Court, and one hundred pounds was raised to send John Proctor, as agent, to carry the grievances of Baptists to the authorities in the mother country. The remonstrance aroused so much opposition in the General Court that a motion was made to have the signers arrested; but Governor Shirley, who had been absent in England when the law was passed, convinced the members of the legislature that it would be impolitic to evince such prejudice against the dissenters. The matter was then referred to a committee, where it was allowed to rest for the time. The French war now overshadowed the local religious controversy.[33]

History of Bellingham, 105; Proceedings of the Colonial Society of Mass., I, 143. Goodell in the Proceedings of the Colonial Society says, "in 1752 an act was passed to relieve Anabaptists by establishing rules for identifying their members and ministers." Newman says, "the legislature in 1752, amended the exemption law so as to make it far more burdensome." Foote thought the law was passed to keep "New Lights" out of the Baptist fold. It seems to me a better summary statement would be to say the law was intended to keep "New Lights" from enjoying the privileges that were intended for the Baptists.

[33] Mass. Archives, XIII, 496–506; Backus, II, 140–141; Hovey, 176,

The General Court tried to solve the religious problem by granting the several towns in the province the authority to adopt the Boston system of assessing the pews for the support of worship. This would have eliminated the parish taxes which had caused and were still to cause so much trouble. But few towns saw fit to adopt the Boston plan.[34]

When the law of 1747 and the amendment of 1753 terminated, a new law was published, in 1758, by which the religious system was to be regulated for the next three years. The certificate system was retained for both Quakers and Baptists; the former were to have their certificates signed by three of the principal members of the society; the latter by three principal members and the minister. The law was reënacted in 1761 for ten years.[35] As carried out it compelled the dissenters to attend worship, and those who lived too far away from churches of their own denominations were compelled to pay toward the support of the established Congregational church in the town where they lived. A member of the established church called this toleration; a Baptist called it persecution and opposed it with a fanatical zeal.

In general, the period was one of decline in religion. The ministers in the established church saw

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193. In the remonstrance, which is a very able document, the law was characterized as illegal, impossible, and an "Inquisition." The Baptists demanded total exemption and threatened to appeal to the Crown if their demands were not met. Oppressions in Upton, Sturbridge, Wrentham, and Medway were cited. The council dismissed the remonstrance on the ground that it contained "indecent reflections."

[34] Province Laws, III, 779; V, 40–41; Mass. Archives, XIII, 285–288; Buck, Ecclesiastical Law, 38–39.

[35] Province Laws, IV, 67, 420; Guild, Chaplain Smith and the Baptists, 88–89.

need for stricter laws as a remedy, whereas the dissenters resented all such legislation.[36] From the viewpoint of members in the established church, one of the evidences of the decline in religion was the fact that many towns had installed ministers whose training was considered inadequate.[37] To counteract this evil tendency, a law was passed in 1760 which provided that no teacher of religion could qualify to become the legally recognized minister of a parish unless he had an academy or college training, or had obtained testimonials from the majority of the ministers already settled in the county. In view of the fact that the ministers of the established church were generally the majority of the ministers in a county, this law made it possible for the ministers of the established church to keep dissenting ministers from obtaining the money which was collected for the support of worship by the town or parish authorities. Even in towns where the Baptists were in the majority, they could no longer ordain their minister as the minister of the town until they could get the consent of the majority of the ministers in the county. An illiterate Congregationalist could probably get testimonials with less difficulty than an illiterate Baptist. In South Brimfield, for instance, the Baptists, although they controlled the town and the parish, could not collect the religious taxes for their minister. The courts denied them the privilege to do so.[38]

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[36] For general statements on the status of dissenters about 1760, see Channing, History of the United States, II, 438; Hockett, Political and Social History of the United States, 66; Foote, Annals of King's Chapel, I, 442 and 468 note; Backus, II, 141; Hollis Papers, 1759–1771, 9; Boston Gazette, Aug. 8, 1763 and Feb. 9, 1761. For the new law for Sabbath observance see Purcell, Connecticut in Transition, 6–9; Boston Gazette, Feb. 9, 1761.

[37] Province Laws, IV, 288. In the preamble it is stated that the purpose of the law was to curb the settling of "ignorant and illiterate persons, . . ." because "the validity of the assessments made for the support of such persons" had been disputed.

The certificate law of 1758 was brought into the courts for a test case in Haverhill. John White, the wealthiest merchant in the town, was an attendant but not a member of the Baptist church. When the established church voted to build a new meeting house, the Baptists and those who attended the Baptist church obtained certificates to avoid the tax for it. Distraint was made on White, who thereupon sued the assessor. The court ruled that two witnesses for him were disqualified because they, too, were claiming exemption and were therefore interested parties in the case. By this ruling all the Baptists and those who attended the Baptist church were disqualified. In spite of the ruling, however, the superior court at Salem awarded White thirty pounds damages. The town appealed the case and won on the ground that he was not a member of the Baptist church. The final decision seems fair for all concerned. The ruling of the court against Baptist witnesses, however, seems manifestly partial and unfair. If all Baptists were parties concerned, it would take no elaborate argument to show that all Congregationalists were as much concerned as were the Baptists. The town meeting apparently saw the difficulty into which it was getting and cut the Gordian knot in 1769 by voting to grant exemption to all who had been baptized "by Diping or plunging in water."[39]

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[38] Province Laws, IV, 288, Backus, II, 143ff.; Backus, Appeal to the Public for Religious Liberty; Boston Gazette, Feb. 18, 1760.

[39] Guild, Chaplain Smith and the Baptists, 89–91; Backus, History of the Baptists, II, 141–143. Guild says the affair cost Mr. White

The certificate law was vulnerable in another respect, as was manifested in a case in Montague. In that town one of the principal members whose duty it was to sign certificates for Baptists had signed one for himself. The court held that his certificate was not valid because it had only two signatures—his own was not recognized as legal—whereas the law required three. Baptist witnesses were again ruled out as interested parties. By invalidating the certificate of one of the principal members of the Montague Baptist church, the court indirectly challenged all the certificates which he had signed. The Baptists, therefore, after spending three hundred dollars in litigation seemed to have no further recourse. These cases sufficiently illustrate the Baptist attitude toward the law as well as the difficulties that arose in its application.[40]

An even more important conflict between the Baptists and the established church grew out of the status of Baptists in unincorporated towns. No exemption was granted to dissenters until a town was fully organized and incorporated. One of the heaviest burdens on the settlers of a new town was the building of the meeting house and the settling of the

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"upwards of eighty pounds or nearly one-third the sum originally appropriated by the parish for the new Congregational meeting house." For evidences of prejudice against Baptists in Haverhill before White's case, see Guild, ch. ii; Newman, 259–260; Backus, II, 138; Chase, History of Haverhill, 552, 553, 570, 578, 579, 584. In Easton a man who attended the Baptist church but who was not a member won a suit similar to that of White in Haverhill. See Chaffin, History of Easton, ch. xii.

[40] Backus, History of the Baptists, II, 163–164; also his Letter to a Gentleman in the Massachusetts General Assembly. In the latter he cites cases of Baptist oppression in Berwick, South Hadley, Shutesbury, Chesterfield, and Colerain. In South Hadley the Baptists paid twenty dollars to be free from the religious taxes in the future.

minister. Not infrequently the meeting house was in an unfinished state for a number of years while the funds to complete it were being raised. The sale of lands for delinquent taxes was not unusual in a new town, a fact which should be kept in mind in the reading of the following pages.[41]

The most notable case on the rights of Baptists in a new town developed in the town of Ashfield. It was contested from the local town meeting to the Privy Council, where the established church met a signal defeat.[42] The struggle was influenced by the other issues in provincial and imperial politics for the period just preceding the Revolution. The town was granted in 1735 on the usual condition that the grantees "Settle a Learned Orthodox minister and build a Convenient Meeting house for the Public Worship of God."[43] The actual settlement of the town was long delayed for reasons beyond the control of the grantees. Even as late as 1754 all the inhabitants were compelled to leave because of hostile Indians. The first church, consisting of nine members, was organized by the Baptists in 1761. During the next year they ordained Ebenezer Smith to be their minister. The proprietors called and ordained a Yale graduate to be the minister of the town, in 1763. The members of the Baptist church paid their religious taxes as provided by law for unincorporated towns. In 1762, however, the two assessors were ordered to pay a fine for omitting the name of the Baptist minister from the tax list. They thought he was exempt from paying the general tax because he was a minister, but the court ruled against them.[44]

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[41] Boston Gazette, Feb. 6 and March 20, 1753; Jan. 1 and Apr. 9, 1754; Aug. 18 and Oct. 6, 1755.

[42] The Mass. Gazette for Dec. 27, 1770 gives a concise account of the case.

[43] Province Laws, IV, 518. In the incorporating act it was not stated that the minister was to be supported after he was settled.

In 1767 the proprietors appealed to the General Court for an extension of their powers of taxation, on the ground that it was "absolutely necessary" in order to carry out the terms of the grant.[45] Soon after that the Baptists petitioned the General Court for exemption from the religious taxes on the ground that the town was incorporated. The General Court recognized the legality of the Baptist demand to the extent that it ordered the taxes suspended, but it also gave the proprietors the opportunity to reply to the Baptist petition.[46] At that stage of the controversy Colonel Israel Williams, the representative from Hatfield, was instrumental in getting the General Court to pass a law which gave the proprietors of Ashfield the power to lay and collect taxes in spite of the fact that the town was incorporated. This unusual law seems to have had but one purpose—the coercing of the Baptists.[47]

The proprietors proceeded to make use of their power, levying a tax of over five hundred pounds in 1769 for the purpose of completing the meeting house and paying the salary of the minister. As the Baptists refused to pay the tax, their lands were advertised to be sold on May 3, 1769. Postponement, made necessary because of a technical error, gave the Baptists another opportunity to appeal to the General Court. They also appealed to the Baptist Committee of Grievances, the official committee of the Warren Association of Baptists in New England. That Association had been formed under the leadership of James Manning, the first president of the Baptist College in Rhode Island, and others prominent in the denomination, who, while recognizing the traditional aversion of the Baptists for any kind of synod, saw the need of some form of loose organization to make the fight for religious freedom in New England. The feeling that they were oppressed tended to drive many Baptists to accept the loose organization as the lesser evil.[48]

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[44] Province Laws, IV, 1037; Mass. Archives, XIV, 558. The question was whether the Baptist minister was a minister according to the law, which provided that ministers of the Gospel were free from all taxes.

[45] Province Laws, IV, 1035.

[46] Ibid., 1036; Mass. Archives, XIV, 512–513, 563; Backus, II, 151–152.

[47] Province Laws, IV, 1015. The new law was called, "An Act in addition to an act for erecting the new Plantation called Huntsdown in the county of Hampshire, into the town called Ashfield." See also Backus, II, 152. The law, by making a closed corporation the taxing body in Ashfield, seems to be contrary to the spirit of Massachusetts town government.

The Warren Association, in a meeting in 1769, officially recognized the Ashfield Baptist church.[49] A committee was named to draft petitions to the assemblies of Massachusetts and Connecticut in behalf of oppressed Baptists. A second committee was named to receive "well attested grievances" from Baptists who had suffered oppression. Plans were made for an appeal to the Crown in case redress could not be obtained from the provincial authorities.[50] The Ashfield Baptists made another appeal to the General Court, but their petition was dismissed on the very day that their lands were to be sold. Some representatives, either because they thought injustice was being done or because of the political significance of the case, brought the petition back for a reconsideration, but no relief was granted.[51]

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[48] Wood, History of the First Baptist Church in Boston, 255–256; Guild, Manning and Brown University, 72–74; Backus, II, 154–155.

[49] Mass. Archives, XIV, 563; Province Laws, IV, 1037–1038.

[50] Hovey, Life and Times of Isaac Backus, 174; Guild, Chaplain Smith and the Baptists, 140ff.

The amount levied on each right in Ashfield by the proprietors was eleven pounds, eighteen shillings, and seven pence. Land said to have been worth over three hundred and fifty pounds was sold for less than twenty pounds. One man who bought some of the land "wanted another vendue that he might buy the rest."[52]

The Baptist Committee of Grievances met in Boston, on July 31, 1770. Soon after its meeting an advertisement appeared in the Boston newspapers, calling on Baptists to send to the committee evidence of oppression. A statement that "measures will be resolutely adopted for redress from another quarter" brought the matter to the attention of the public. It augured ill for the Bostonians, who were just then in a quarrel with the Crown, to have the Baptists carry their case to England.[53]

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[51] Province Laws, IV, 1038; Mass. Archives, XIV, 556; Backus, History of the Baptists, II, 153; Backus, Letter to a Gentleman in the Massachusetts General Assembly.

[52] Backus, Letter to a Gentleman in the Massachusetts General Assembly.

[53] Backus, History of the Baptists, II, 155 note. He quotes the Boston Evening Post for Aug. 20, 1770, as follows:

"To the Baptists in the Province of Massachusetts Bay, who are, or have been, oppressed in any way on a religious account. It would be needless to tell you that you have long felt the effects of the laws by which the religion of the government in which you live is established. Your purses have felt the burden of the ministerial rates; and when these would not satisfy your enemies, your property hath been taken from you and sold for less than half its value. These things you cannot forget. You will therefore readily hear and attend, when you are desired to collect your cases of suffering, and have them well attested; such as the taxes you have paid to build meeting houses, to settle ministers and support them, with all the time, money and labor you have lost in waiting on courts, feeing

The Warren Association at its next meeting unanimously adopted the resolution to appeal to the Crown, if all other attempts to get relief should fail. A committee, of which the Reverend John Davis of the Second Baptist church in Boston was chairman, was named to make another attempt to adjust the issues with the provincial authorities; but, since the Baptists demanded complete exemption from all religious taxes, there was little possibility of a compromise. The Baptists were anxious to forestall the unpopularity which would result from an appeal to the Crown. They exhausted all the possibilities of reaching an agreement with the provincial authorities before they made it. The threat, however, was not enough, so the appeal to the Crown was made.[54]

The provincial authorities tried once more to reach an agreement with the Baptists. They invited them to bring another petition to the General Court. The Lieutenant Governor, Thomas Hutchinson, promised to do what he could to bring about an adjustment. The new petition from the Baptists contained a plea against religious taxation without representation. It also brought out the fact that under the Ashfield law it was impossible for Baptists to settle in new towns.

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lawyers, &c.; and bring or send such cases to the Baptist Association to be held in Bellingham; when measures will be resolutely adopted for obtaining redress from another quarter than that to which repeated application hath been made unsuccessfully. Nay, complaints, however just and grievous, have been treated with indifference, and scarcely, if at all, credited. We deem this our conduct perfectly justifiable; and hope you will pay particular regard to this desire, and be exact in your accounts of your sufferings, and punctual in your attendance at the time and place above mentioned." Boston, July 31st, 1770."

See also Mode, Source Book of American Church History, 290–291.

[54] Hovey, Life and Times of Isaac Backus, 175–177; Backus, II, 155–156; Guild, James Manning and Brown University, 130–143. Hovey gives the documents.

Repeal of the Ashfield law, restoration of the property taken, and perpetual exemption were demanded.[55]

Each side outlined its case in the newspapers. One writer who appeared in behalf of the establishment pretended to be astonished to hear complaints from the Baptists and challenged any who had grievances to appear. The position taken by the Baptists was that the laws were oppressive, and that the interpretation of them by the courts was even more objectionable. Their opponents argued that the laws were properly executed and if any changes in them were needed it was for the majority to make them. The argument seemed invincible, but it failed to take into the account the imperial relations. The spirit of the times was on the side of the Baptists who used Locke's arguments effectively.[56]

The exemption law for both Quakers and Baptists was about to expire; a new law slightly more favorable to the Baptists was enacted.[57] Under the new law any town was permitted to exempt Baptists, even though they had no certificates. This was an attempt to shift a part of the responsibility back to the towns. The Baptist committee was unwilling to accept the law as a final solution of the issue.[58]

In the General Court which met in Cambridge in 1771 the lower House was inclined to compromise with the Baptists, but the council made it impossible. The committee of the General Court categorically stated that there never was a law exempting Baptists and Quakers in new plantations. The truth of that statement the Baptists could not deny, but in Ashfield they had been taxed by proprietors after the town was incorporated. It appears as though the General Court was willing to give the Baptists all the privileges that they had enjoyed before the Ashfield law had been passed, but the Baptists were unwilling to settle the issue on that basis. They felt that it was possible to gain more liberty than they had ever enjoyed in Massachusetts.[59]

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[55] Province Laws, IV, 1038–1039; Mass. Archives, XIV, 592–595; Hovey, 176–180. The editor of the Province Laws wrote Hugh Smith for Hezk. Smith. The other signers of the petition were Samuel Stillman and John Davis.

[56] Backus, II, 156; Hovey, 181; Mass. Gazette, Dec. 27, 1770.

[57] In the new law the Baptists were called "anti-pedobaptists" whereas before they had been called "anabaptists." The latter was the more opprobrious term.

[58] Province Laws, V, 111–113; Backus, II, 156–157; Hovey, 180.

The appeal to the Crown soon brought results. In a letter written by the Reverend William Gordon[60] to James Bowdoin dated from London on May 18, 1770, the writer referred to the issue as follows:

> "I now come to an affair, in which I would desire that you use your influence, lest it should

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[59] Thornton, Pulpit of the Revolution, 154; Mass. Gazette, Jan. 14, 1771; Warren-Adams Letters, I, 10; Hosmer, Thomas Hutchinson, 173, 212; Province Laws, IV, 1039–1045; Mass. Archives, XIV, 596–603. The Ashfield proprietors argued that the Natural Rights theory would "forever exempt" any who were disinclined to pay taxes. George III would no doubt have agreed with them. The proprietors characterized the Baptists, or "Separate Baptists" as they called them, as "a kind of receptacle for scandalous disorderly Christians." They denied that the Baptist minister could qualify as a religious teacher according to the standards of the laws of 1692–1693, chap. 26, and 1759–1760, chap. 24. Some of the non-Baptists in Ashfield opposed the sale of the land of the Baptists. They sent a petition to that effect to the General Court. See Province Laws, IV, 1043ff.

[60] The Reverend William Gordon was the pastor of an Independent church in Ipswich, England, but came to Massachusetts and was ordained in the Jamaica Plain church, Roxbury, Massachusetts, on July 6, 1770. He later served as chaplain for the provincial congress. His Thanksgiving sermon of 1774 was considered daring and almost treasonable. As an historian of the Revolution he has been blamed for plagiarizing. See Thornton, Pulpit of the Revolution, 156, 187, 196; Libby, in Annual Report of the American Historical Association, 1899, I, 367–388

lead to bad consequences. The baptists, I understand, look upon themselves as hardly used & in some measure persecuted in the Colony of Connecticut, & have had their thought of addressing his Majesty on this head. There are persons about the court who have heard of their being thus treated; & the ministry together with the clergy would gladly hearken to complaints of this kind. A clamour would be raised against the four colonies; for the people here consider them all as one, & do not know how they are separated. The administration would be ready to make a handle of it, & I doubt not would give the baptists, (or rather I should say anabaptists or anti-paedobaptists) relief as to the matter complained of. I would wish that the colonies would allow full liberty of conscience, & that religious sentiment might be opposed by no other arguments than those drawn from scripture. If the Baptists have been opposed in any way that does not consist with the common rights of mankind, & have been punished or harassed for their peculiar notions, I would advise that it may not be so again. Such methods seldom answer, & in general serve to strengthen the cause they are meant to injure. Christ's kingdom is not of this world, & needs no such worldly supports. The supporters of his cause are to be truth and piety. I most heartily wish my dissenting brethren were more consistent with their own principles, & that we all acted more according to that golden rule. . . . Could you by your influence put a stop to any harsh proceedings, I am persuaded you will be doing much service to the interests

> of true religion & to the civil concern of the colonies."[61]

Gordon recognized the fact that the imperial relations were such as to give the Baptists the advantage in the controversy. His advice to Bowdoin was well taken, as events were to prove.

The Reverend Samuel Stennett, a Baptist minister in London, who stood in favor with George III, wrote to James Manning, the president of the Baptist College in Rhode Island, on August 10, 1770, as follows:

> "I hope the discouragements the Baptists have lately met with in America are removed, and their grievances in some degree at least redressed. . . . And our friends, I hope, see the importance and reasonableness of taking every united step that our divine religion teaches, before they proceed further."[62]

The attitude of a minister of the established church in Massachusetts is given in considerable detail in a letter from the Reverend Andrew Eliot, one of the prominent ministers of Boston, to Thomas Hollis in England. Eliot wrote:

> "Another controversy hath unexpectedly arisen, we judge, from the Episcopalian quarter, although they do not appear in it. Our Baptist brethren, all at once, complain of grievous persecutions in the Massachusetts! These complaints were never heard of until we saw them in the

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[61] Mass. Hist. Soc. Proceedings, 1863–1864, 293–295; Backus, II, 227–228. After Gordon came to Massachusetts he became a defender of the established church.

[62] Guild, James Manning and Brown University, 125. Stennett was a graduate of Aberdeen University. One of his petitions to the Lords of Trade and Plantations is given in the Pocumtuck Valley Memorial Association, History and Proceedings, V, 210.

public prints. It was a great surprise when we saw them, as we had not heard that the laws in force were not satisfactory. There was soon reason to suspect that the whole originated among us with a young minister from Pennsylvania, who has lately been introduced into this Town;[63] and we were informed by our friends in that Colony, that the Baptists there had formed a coalition with the Episcopalians, and had refused to join the Presbyterians in opposing the American Episcopate. The truth of this you will easily believe, from one of the Philadelphia papers, which was lately published here.[64] I wish I could send you the whole of the abusive things that have been published against this Province, on this subject; but it is not at present in my power. *I wish our fathers had contrived some other way for the maintenance of ministers, than by a tax. Thank God, we have none in Boston. I do not like anything that looks like an establishment.* But in the way in which our ministers are generally maintained, the Baptists can have very little reason to complain. For as soon as any produce a certificate that they are Baptists, they are excused from all ministerial taxes. The certificate is to be given by persons of their own denomination, who are hereby made the only judges, and who it is supposed (like all others) will be fond of increasing their party. There is no doubt that this exemption induces some to profess themselves Baptists. There may have been some particular acts of hardship and injustice, but they must have proceeded from some accidental cause. There is nothing in the present complexion of this country, that looks like persecution. Both magistrates and ministers are as free from it as they ever were in any age or country. If it were not so, I should detest New England as much as I now love it, and if possible would leave it. I waited on Mr. Stillman, a Baptist minister in my neighborhood, as soon as I saw the complaints in the public prints. I complained in my turn of the injury he did the country. I told him that if there was any thing wrong, we would join with him in getting it redressed. I spake to Speaker Cushing, Mr. Adams and others of the Assembly, who promised to look carefully into the matter, to have the law altered so as to give all reasonable satisfaction to the Baptists. Other ministers joined with me; and yet, after this, we found another advertisement wherein they mentioned that they had chose an Agent to repair to England to address His Majesty. We thought it very hard that they should apply against their own country at a time when there was such an unfavorable disposition towards us in the court of Great Britain.

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[63] Probably a reference to John Davis of the Second Baptist Church in Boston. Ezra Stiles called him a sensible man. See Literary Diary of Ezra Stiles, I, 241, 351; Backus, II, 423.

[64] Boston Evening Post, Jan. 14, 1771.

In the public papers at Philadelphia, (for they attack us at a distance) we are threatened with the loss of our charter, for our treatment of the Baptists. This hath raised a spirit against them among our sons of liberty—as I am in friendship with both parties, I converse with both. Many among the Baptists in this Town, are much displeased with the publications, and insist that their ministers shall exculpate themselves from

> being the authors of these cruel charges against their country. Both the Baptist ministers have declared to me that they are sorry they have proceeded so far, and that they will publish no more. The scheme of sending to England, is, I hope, at an end, and that all will be amicably settled. It will be, unless the Episcopalians stir the Baptists at the Southward. You will excuse my enlarging on this head; the reason is, that I fear some malevolent persons have sent false accounts to England. If there are any charges brought against us there, we shall be glad to be made acquainted with them, that we may have opportunity to vindicate ourselves. I hate every species of persecution, and cannot bear that a people should be accused of it that in my conscience I believe are free from it."[65]

Eliot apparently thought the certificate system made it easy for all Baptists to avoid the ministerial taxes. He also thought that there was no persecution in Massachusetts. Why then did he wish that the "fathers had contrived some other way for the maintenance of ministers"? Why did he blame the Episcopalians? Why did he not get the Ashfield law repealed? Or at least admit that in Ashfield there was a real problem and one for which the Episcopalians were not to blame? My conclusion is that he failed to appreciate the position and attitude of a minority denomination, such as the Baptists. He "thought it very hard" that others should attempt to obtain the liberty which he and his fellow-townsmen were enjoying at that time! He was a priest of an established order, not a prophet of a new day. He was unlike another Eliot who made for himself a place on the rôle of the protagonists of freedom.

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[65] Mass. Hist. Soc. Collections, fourth series, IV, 455ff. Italics mine.

It is significant that not one of the three ministers quoted was willing openly to defend the establishment. It was no longer in harmony with the spirit of the time in Massachusetts.

The Ashfield law was disallowed on July 31, 1771.[66] The established church thus suffered another defeat at the hands of the Privy Council. Three years later the Baptists in Ashfield settled their differences with the town authorities. However, the leaders of the Warren Association were unwilling to stop with one victory. They next planned an attack on the certificate system, which they felt implied that one denomination was above all others. They were convinced that it could not withstand the united attack from the Baptists. Apparently the provincial authorities had learned their lesson. A new law was in the process of making when the Revolution came, and the religious problems were postponed.[67]

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[66] Acts of the Privy Council, Colonial Series, 1766–1783, 323–324.

"[A Massachusetts Bay act of June, 1768,—in addition to an act for erecting the new plantation called Hunts Town in the county of Hampshire, into a town by the name of Ashfield—is disallowed, on the Committee report of 20 July, agreeing with a Board of Trade representation of 31 May, referred to them on 7 June, which showed] That by this Act the proprietors of Lands in the above Township of Ashfield are impowered to levy and Collect such Taxes and Assessments as they shall judge necessary to Compleat the Building of a Meeting House, and for the settling and supporting an Independent Minister; and . . . That the Monies, so granted, shall be assessed upon the Lands of each Original Right in the said Town (consisting of two hundred and fifty acres each) every part of which, in whose hands soever the same may be, is made sufficient for the payment of it's proportionable part of such monies, so granted for the purpose aforesaid. That this Clause, whereby all persons of whatever Sect or Perswasion in Religion, occupying Lands in this Township are equally and indiscriminately taxed for the support of the Independent Church therein established, is equally unusual and unreasonable, particularly in the case of the Sect commonly called the Anti-poedo-Baptists, it appearing, That out of seventeen Families, of which this Township at its first Settlement consisted, Twelve of them were of the above Sect or perswasion.

"[The Committee, on 20 July, was attended by only five members of the Council (including the Archbishop of Canterbury and the Bishop of London), and they recorded their opinion in a minute] that at a full Board it will be necessary to consider whether it may not be proper to advise His Majesty to give Instructions to the Governor of the Massachusetts Bay not to assent in future to any Act containing a Clause of the same nature with that objected to in the preceeding Report."

During the quarter of a century after 1750 the Baptists gained steadily in numbers and influence in Massachusetts. A part of their increase in numbers was due to the "Separates," who from the beginning had had much in common with them and who were practically driven into the Baptist denomination in order to gain exemption from the religious taxes. The religious and political leaders in the province seem to have permitted their prejudices to get the better of their judgment. By refusing to recognize the "Separates" as a part of the established Congregational church, or as a new denomination with legal privileges, they brought pressure to bear upon them which helped them to overcome their differences with the Baptists. The Baptists also greatly augmented their influence by forming the Warren Association. That organization made their attacks upon the established church more effective than they would have been if made by individual congregations. The Ashfield case gave the Warren Association the opportunity it needed to commend itself to those Baptists who had been unwilling to accept even a loose organization of Baptist congregations. The defenders of the established church made a tactical error when they tried (in the Ashfield case) to take away from the Baptists a privilege which they had enjoyed for several decades. The spirit of the time was on the side of the Baptists. The imperial authorities were not unwilling to take advantage of an opportunity to bring division into a province that was on the verge of rebellion.[68] On the other hand, the Baptists were determined not to permit the authorities in the province to oppress them without carrying their case to the Privy Council. The authorities in the province could ill afford the defeat at the hands of the Privy Council. The victory of the Baptists strengthened the Warren Association and encouraged them to make further attacks on the establishment. The Revolution postponed the conflict. The patriots compounded their differences in their struggle with the mother country.

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[67] Province Laws, V, 392–394. The editor of the laws says the law was passed by both houses and was signed on June 17, 1774. Hovey says the law was passed by both houses but due to the prorogation of the General Court the governor never signed it. During the war the laws for the support of the establishment were not strictly enforced. See Hovey, 200.

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[68] Williams, Life of William Pitt, Earl of Chatham, II, 294–295. Pitt appeared in the House of Lords on May 19, 1772, in behalf of the dissenters in England. They, too, were making a fight for greater freedom.

CHAPTER III

THE ANGLICAN CHURCH IN MASSACHUSETTS BEFORE THE REVOLUTION

Although some Anglicans had come to Massachusetts before that time, the Episcopal church as an institution was foreign to the colony until 1686, when "for the first time the liturgy was publicly read" in Boston.[1] Edward Randolph, who had been instrumental in organizing that church, suggested that it might be supported by using "a part of the money sent over hither and pretended to bee expended amongst the Indians," by marriage fees, which could be made a monopoly of the Anglican ministers, and by the confiscation of the estates of those whose "treasons have forfeited them to his Majestie."[2] These sanguine hopes of Randolph were doomed to failure with the approach of the Glorious Revolution and the fall of the Stuart dynasty. King William was, by policy and training, less favorable to the Anglican party in England than the Stuarts had been.[3] During his reign the Anglicans lost heavily in prestige in the mother country. With the reign of Queen Anne a part of that prestige was regained. It was during her reign that the Congregationalists in Massachusetts developed a strong antipathy for the Society for the Propagation of the Gospel, an Anglican organization incorporated under a charter granted by King William in 1701.[4] Apparently the Anglicans in the colonies would have received their own bishop in the early decades of the eighteenth century but for the fact that the death of Queen Anne occurred before the plans were completed. The Hanoverians, especially George I, were not inclined to favor the Anglican party either in England or in the colonies; consequently, the matter of a colonial bishop was postponed.[5]

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[1] Toppan, Edward Randolph, I, 290; Perry, History of the American Episcopal Church, I, 177; Tiffany, History of the Protestant Episcopal Church, 84ff. The Anglicans who came to Massachusetts before 1680 were not given a hearty welcome by the Puritans.

[2] Hutchinson, Historical Collections, 531, 533, 540; also his History of the Colony of Massachusetts-Bay, I, 318.

[3] Tiffany, 95; Mayhew, Observations on the Charter and Conduct of the Society for the Propagation of the Gospel in Foreign Parts, 20.

In 1722 New England was stunned by the news that Timothy Cutler, Samuel Johnson, and several others of the faculty of Yale College, having become "persuaded of the invalidity of the Presbyterian ordination," had decided to seek Episcopal ordination.[6] John Checkley was fined fifty pounds and costs by a court in Boston, in 1724, for writing against the Presbyterian ordination.[7] At that time there were probably but three Episcopal churches in Massachusetts, outside of Boston, and the members of those churches were taxed for the support of the established Congregational worship.[8] The members of the

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[4] Mayhew, 15, 50ff.; Foote, Annals of King's Chapel, I, 218; Tiffany, 84, 95. There had been provision made by Parliament as early as 1649 for the incorporation of sixteen persons for the purpose of converting the natives in the colonies.

[5] Beardsley, Life and Correspondence of Samuel Johnson, 69; Perry, I, 399–400; Cross, The Anglican Episcopate, 88.

[6] Beardsley, 15ff.; Church History of Connecticut, Documents, I, 53, 67ff.; Church History of Massachusetts, Documents, 142, 143; Mode, Source Book of American Church History, 242–244.

[7] Slafter, John Checkley, II, 37, 50; Perry, I, chs. xiv, xv; Cross, 65–66; Church History of Massachusetts, Documents, 146; Tiffany, 99–100, 111. Episcopal writers admit that Checkley was not given to making friends. His "mode of disputation" angered some Episcopalians. See also Beardsley, 97.

[8] Church History of Massachusetts, Documents, 139–141; Coffin, Sketches of Newbury, Newburyport, and West Newbury, 182ff. The

Episcopal churches, to whom the taxes seemed oppressive, made several appeals for relief, in which they were not successful until 1727. By a law enacted in that year the clergy of the Anglican church could collect, from the town treasurers, the money which their parishoners paid into the town treasuries for the support of worship, if the parishoners lived within five miles of the Anglican meeting house which they usually attended. These same parishoners were also to be free from all taxes levied for the purpose of building meeting houses for the Congregational church.[9]

These stipulations did not meet with the wholehearted approval of the Episcopalians; they appealed to the Crown at that time for the dissolution of the establishment, on the ground that it was a violation of the charter of 1691. By rendering a decision against the appellants, in 1732, the law officers of the Crown implicitly recognized the establishment as legal. The Anglicans also tried to get representation on the board of overseers of Harvard College. Their efforts in that direction were thwarted by the authorities in the province.[10]

In 1731 Roger Price, who had been appointed Commissary for New England the year before, appealed to the General Court in behalf of the Episco-

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Episcopal church in Newbury seems to have grown out of differences that arose over the location of a new meeting house in 1711. In 1714, it was voted to free those who "are, or shall be, for the episcopal way of worship and also all quakers," from the parish taxes for the support of worship. The people of the town seem to have been unusually tolerant for that time.

[9] Province Laws, II, 459–460; Church History of Massachusetts, Documents, 191ff., 207–208, 250-252.

[10] Beardsley, 114, 144; Church History of Massachusetts, Documents, 212–214, 216–219, 235–243, 257-261, 274–288; Foote, Annals of King's Chapel, I, 457–459.

palians for equal privileges with the Quakers, for whom Governor Belcher was pleading at that time.[11] Three years later a test case on religious taxes was appealed to the Privy Council by Matthew Ellis of Medford, who claimed to be a member of the Episcopal church. He had been arrested by a constable, Richard Sprague, for refusing to pay his religious tax. The Privy Council cited Sprague to appear before it, a decision which made constables more circumspect in dealing with Anglicans in the future. The General Court removed the five mile limit in 1735; henceforth all Episcopalians who usually attended the religious instruction in their own church could have their religious taxes paid by the town treasurers to their own religious teachers.[12] It must not be inferred, however, that after the passing of the law of 1735 no Anglicans were taxed for the support of the establishment. There were those who lived too far from an Episcopalian church to attend the religious instruction. These were still taxed for the support of the establishment. One of the aims of the Society for the Propagation of the Gospel was to settle missionaries in such regions. This arrangement made it possible for the missionaries to collect the money paid by their people. In spite of the Anglican church polity, which was in favor of an establishment, the Anglicans in Massachusetts in some instances tried to obtain exemption from the religious taxes, a privilege which had been granted to Quakers and Baptists because they had conscientious scruples against an established church. The General Court consistently refused exemption to Episcopalians; they paid the religious taxes just as did the members of the established church. They could not be accused for joining the church in order to avoid the religious taxes.[13]

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[11] Church History of Massachusetts, Documents, 272–273, 337; Publications of the Colonial Society of Massachusetts, I, 142–143. See also Russell, The Review of American Colonial Legislation by the King in Council, 491–492.

[12] Church History of Massachusetts, Documents, 311–312, 317–318; Acts of the Privy Council, Colonial Series, 1720–1745, 461; Province Laws, II, 782–783. The law was enacted for five years but renewed from time to time.

After 1735 the Episcopalians generally accepted their legal status, although there were particular cases of litigation later.[14] In 1742 Commissary Price reported that he had had "a great deal of trouble attending the courts," in the county where he lived, to defend one of the members of his church who was imprisoned for refusing to pay a tax levied for the purpose of building a meeting house for the established church. The case was carried through three courts.[15] According to the author of the history of Canton, Episcopalians were taxed for the support of the established church in that town as late as 1767.[16] A case is mentioned as having arisen in the town of Easton in 1762.[17] In 1771 the Reverend William Clarke of Dedham reported that the treasurer of the town inconvenienced him by refusing to pay him the money which had been paid into the town treasury by his parishoners.[18] Although these cases seem to have been the exceptions, they were, nevertheless, sources of friction.[19]

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[13] Church History of Massachusetts, Documents, 139–141, 336–340; Foote, Annals of King's Chapel, I, 445; Backus, II, 156.157. As late as 1770 no one was granted exemption from the religious tax except on the plea of conscientious scruples. Some of the "Separates" were denied it on that ground. See Beardsley, 203, for an argument for toleration made by an Episcopalian.

[14] Foote, Annals of King's Chapel, I, 468 note, 479; Debates of the Convention of 1820, 366ff.

[15] Church History of Massachusetts, Documents, 446.

[16] Huntoon, History of Canton, 284.

[17] Chaffin, History of Easton, 183.

[18] Church History of Massachusetts, Documents, 559–560.

The Episcopalians had sanguine hopes for a large increase in their church membership as soon as the laws made the religious taxes which their members paid available for their own religious teachers. They were, however, to be disappointed. Their greatest gains came in Boston, where they never had suffered because of the taxes.[20] Not a few Congregationalists left their church to join the Episcopalians because of readjustments made necessary by the Great Awakening. Whitefield had been ordained in the Anglican church, yet when he came to Boston he was not welcomed by the Episcopalians there. When the Reverend Timothy Cutler met him on the street, he said, "I am sorry to see you here," whereupon Whitefield replied, "So is the devil."[21] As long as revivalism was at high tide the Episcopalians were unpopular. When the reaction came many of the dissatisfied members of the established church became Episcopalians. Some of the congregations compromised with the "New Lights" and offended the more moderate members who then joined with the Episcopalians.[22] In 1748 there were nine Anglican churches in the province, outside of Boston.[23]

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[19] Ibid., 560. The Reverend Timothy Cutler reports that one Anglican who had formerly belonged to the Congregational church found it "to his disadvantage in the hurt of his business and the coarse usage of his former friends." On the other hand the Society for the Propagation of the Gospel gave financial aid to the Episcopal churches in Massachusetts.

In the Massachusetts Archives, XII, 464, the following certificate is given:

"Scituate Sept. 26, 1748.
"To the Treasurer of the first Precinct in Marshfield,
Sir, These are to certify that the gentlemen whose names are here mentioned belong to the established Church of england; and desire to pay their parish taxes towards the support of said church; . . .
This certified by us
"Daniel White
John Jones Church Wardens Ebenezer Thompson
minister."

[20] Church History of Massachusetts, Documents, 197; Foote, Annals of King's Chapel, I, 479.

[21] Platner, Religious History of New England, 225; Church History of Massachusetts, Documents, 346.

The growth of Anglicanism was a matter of great concern for those who were interested in the establishment. The prejudices against Anglicans was manifested in the Torrey case, which was contested in the courts from 1723 to 1752. The litigation arose over some lands in Rhode Island which had been left for the perpetual use of an orthodox minister. The question before the courts was the definition of the word "orthodox." The Anglicans contended that it meant ministers of their communion exclusively, a contention that threatened the position of the clergy in the established church in Massachusetts. The latter appealed to the General Court for an appropriation to fight the case in the courts. The Anglican ministers opposed an appropriation for such a purpose. The General Court advised voluntary contributions. In this case both the ministers of the established church and of the Anglican church in the province were involved in a case in the courts of another province.[24]

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[22] Ibid., 354–355, 360, 379, 383, 404, 405, 418, 424–427; Church History of Connecticut, Documents, I, 174, 189, 190, 195, 200, 211, 214; Foote, II, 7, 8, 25.

[23] Church History of Massachusetts, Documents, 429. There were three Episcopal churches in Boston at that time. The others were in Salem, Marblehead, Braintree, Bristol, Scituate, Taunton, Hopkinton, and Newbury. Each of these towns had one Episcopal church, except Newbury, which had two.

[24] Acts of the Privy Council, Colonial Series, 1720–1745, 402ff., 518ff.; Mass. Archives, XII, 43–48, 59–60; Mass. Hist. Society Collections, second series, II, 199–200; Foote, I, 466–467. This case emphasizes the fact that the established church in Massachusetts might have been endangered by a single court decision in another province.

The Episcopalians were generally bold in asserting their rights. In 1725 they, together with the Baptists and Quakers, were able to thwart the plans of the Congregational clergy for a synod. Moreover, as the membership of the Episcopalian church in the province increased the prejudice against them became greater. Both at Yale and at Harvard the children of Episcopalians were practically compelled to worship after the Congregational manner.[25]

There was a close parallelism between the attitude of the Episcopalians toward the attempts of the Congregationalist leaders to call a synod in Massachusetts and the opposition of those leaders to an American bishop. In one case the Episcopalians seemed to be meddling in an affair of the Congregationalists, whereas in the other the Congregationalists seemed to be interfering in an Episcopalian affair. In both cases, however, the political consequences were bound to affect the religious party not directly concerned. This was inevitable as long as the political and ecclesiastical affairs in the province were so closely related.[26]

The struggle for an American bishop was the most important issue raised by the Episcopalians. The historian must agree that it was a real handicap for

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It also shows that the courts in the eighteenth century did not always settle cases expeditiously.

[25] Beardsley, 112–115, 199ff.; Bradford, Mayhew, 180; Church History of Massachusetts, Documents, 170–171, 250–254, 259, 335–336, 342–345, 424, 467–468. Samuel Johnson argued that some of the donors of Yale College were not interested in promoting "an Academy of Dissenters." He also replied to the Commissary, Roger Price, defending his attitude toward the Congregationalists. He wrote: "As to my son, I am and so is he, as far as you can be from approving his going to meeting, and would by no means permit it, if it were possible to avoid it consistently with his having a public education."

[26] Church History of Massachusetts, Documents, 170–171, 179–180; Dunning, Congregationalists in America, 230–233; Tiffany, 274ff.

the Episcopalians in America to be dependent upon an overseer who lived beyond the sea. Their clergy could not be ordained in America, nor could those sent from England be effectively disciplined. Of the candidates who went to England for ordination approximately one-fifth never returned. Many were overcome by the perils of the voyage and the ravages of disease. Of three candidates that went from Hebron, Connecticut, to England for ordination, one was captured and died in a French prison, and the other two died on the ocean. Other instances of fatality were not unusual.[27] Of the candidates ordained in England for American churches, many were of the less desirable type. The better class generally remained in the mother country, where the opportunities for advancement were greater. Thus, the worst candidates came to America, where the discipline was less effective. A clergyman of the Episcopal church wrote of the state of affairs in Maryland, as follows:

> "Of about forty-five clergymen in the province, five or six are of good character, whose names should be mentioned with honor, ... but to hear the character of the rest, from the inhabitants, would make the ears of any sober heathen to tingle."

Such a leadership was ill adapted to the needs of the church in the colonies (if "cock-fighting" parsons were adapted to the needs of the church anywhere).[28]

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[27] Perry, History of the American Episcopal Church, I, 418; Tiffany, 272; Trevelyan, American Revolution, III, 274; Beardsley, Life and Correspondence of Samuel Johnson, 38ff., 97, 301; Critical Commentary on Archbishop Secker's Letter to Horatio Walpole, 16. In 1724 Samuel Johnson wrote, "a considerable number of young gentlemen, of the best educated among us, for want of episcopal ordination, decline the ministry, unwilling to expose themselves to the dangers of the seas and distempers." Beardsley says ten "out of fifty-one who had gone from this country for ordination in a little more than forty years" lost their lives.

Regardless of the merits of the case itself, it must be admitted that the methods used in the attempts to get an American bishop were not always wise. In several instances these methods were manifestly indiscreet. In 1741, Thomas Secker, the Bishop of Oxford (later the Archbishop of Canterbury), preached a sermon, before the Society for the Propagation of the Gospel, in which he intimated that the people in the colonies were about to "return to entire barbarism."[29] Later the Bishop of Landaff characterized conditions in America as little better than in heathen countries. As a matter of statistics, one-third of the missionaries sent out by the Society went to New England. From that fact it appeared as though New England were the field of greatest need. The New England clergy resented the implication. While they themselves severely criticised the people for their shortcomings, they resented having the Anglican clergy compare them to heathen. The Bishop of Hereford told the Society that there were "fewer churches in all, than are in the least Diocese in this Kingdom."[30] He no doubt referred to Episcopal churches, but such statements were likely to lead to misinterpretations. Apparently these statements were made to arouse interest in the missionary work of the Society rather than to give a scientifically accurate account of the conditions in America. But the fact that the statements were made in a confidential and semi-official manner made their effect all the greater when they were reported in America. Moreover, the Society did not hide the fact that its work enhanced the power of the Crown over the colonies. Samuel Johnson wrote to the Archbishop of Canterbury in 1764 that the opponents to an American bishop are also opposed to monarchy and that "Episcopacy was (is) really necessary towards the better securing" of dependence.[31] There were Episcopalians who opposed the episcopate, but, naturally, the more active opposition came from the other denominations. These exaggerated statements were not left to pass unchallenged in Massachusetts.[32]

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[28] Beardsley, Samuel Johnson, 314; Perry, 401; Trevelyan, III, 272–273; A Critical Commentary etc., 18; New York Documents, V, 849–854; VII, 363ff.; Boston Gazette, May 9 and June 16, 1768; Jones, The Present State of Virginia, (Sabin Reprints) 95–112; Tiffany, History of the Protestant Episcopal Church, 266–267. Tiffany says, "These colonies became the refuge and resort for the thriftless and profligate clergy of England, who were glad to escape from their debts and difficulties at home, and whose friends were so happy to get rid of them that they aided in securing for them assured positions and salaries on a distant continent." Ministers proselyted from other churches in America were also severely criticised.

[29] Mass. Hist. Soc. Collections, second series, II, 191; Perry, I, 406–407, 410–414; Foote, II, 244.

[30] Perry, I, 410–414; Foote, II, 243.

The attempts to establish an American bishop were not given serious consideration during the ministry of Robert Walpole. However, in 1740 Thomas Secker, Bishop of Oxford, brought the matter before the Society for the Propagation of the Gospel. Later Bishop Sherlock became interested in the subject. In

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[31] Beardsley, Life and Correspondence of Samuel Johnson, 295.

[32] An Appendix to the American Edition of the Life of Archbishop Secker, 115–116; Perry, I, 419; Barry, History of Massachusetts, II, 162; Bradford, Mayhew, 195; Foote, II, 243; Cross, The Anglican Episcopate, 105–106; New York Documents, VII, 366–367; Boston Gazette, Sept. 5, 1763 and June 16, 1768. In the Appendix to the American edition of the Life of Archbishop Secker the statement appears, "If the King's Supremacy be (as it has often been stiled) a rich Jewel in the Crown of England, it should be considered that the Supremacy is maintained and obeyed by the established Church only." By "established Church" is meant, of course, the Episcopal church.

1748, when he became Bishop of London, he had the oversight of all the Episcopal churches in the colonies. He decided to bring pressure on the Newcastle ministry by resigning the work, thus leaving the colonial churches without a head. A sharp letter from Newcastle brought him to a realization of the fact that he had overplayed his hand. The ministry was unwilling to lose the support of the dissenters[33] in England for the sake of an experiment with a colonial bishop. This is a good illustration of the interrelation between religion and politics in the empire.[34]

Sherlock and his lieutenants were not to be daunted so easily, however. If the political bishop was objectionable, why not have a bishop in the colonies without political powers? They developed a plan for such a bishop—one whose living was to be provided for without funds drawn from the colonies. Theoretically this plan met the objections on the part of the colonists; but it also raised some embarrassing questions. What would have been the advantage of a bishop with powers no greater than those already held by a Commissary? Why should Episcopalians be so anxious for a mere change of name? It seemed unreasonable to suppose that nothing more was intended than a mere change of name, consequently the opponents of a bishop with powers turned upon the new plan. The plan for a non-political bishop was opposed almost as vigorously as the plan for a political bishop.[35]

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[33] The word "dissenters" is here used to mean those who dissented from the Anglican church in England.

[34] Church History of Massachusetts, Documents, 434, 444; Cross, 116–117, 122, 125–126; Hawkins, Missions of the Church of England, 392; Acts of the Privy Council, Colonial Series, 1745–1766, 100; Beardsley, Samuel Johnson, 297; Tiffany, 277. See also Williams, Life of William Pitt, II, 294–295, for an example of the relation of politics and religion in English affairs.

The expressions of those who favored an American episcopate were not always consistent. In 1753 the Society enjoined its missionaries not to give offense to the civil government by meddling in politics. Three years later the missionaries were instructed to "make the people sensible to the great blessings they enjoy, . . . and the advantage of lawful government under the reign of a Protestant prince."[36] In 1759 Bishop Sherlock pointed to the great need of ecclesiastical jurisdiction in the colonies and suggested as a remedy an American bishop.[37] In the same year the Reverend East Apthorp, who had been educated in Cambridge, England, offered his services for an Episcopal mission to Cambridge, Massachusetts. It had been suggested that a missionary was greatly needed there to prevent the errors of Socinianism and Deism from "poysoning the Foundation of Education." Apthorp was unanimously chosen for the mission, in spite of the fact that there was some apprehension lest the "settling of a mission in Cambridge . . . . raise a great clamour."[38]

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[35] Mass. Archives, XIII, 177ff.; Hawkins, Missions of the Church of England, 390–391; Cross, 122–123; Perry, I, 408–409; Contemporary Review, V, 489–501; Tiffany, 277. It is interesting to speculate on what the effects of a non-political bishop would have been. Cross thinks it would have led to greater efforts to obtain a bishop with full powers for the colonies. Perry points out that the opposition to a non-political bishop was due to prejudice. Tiffany thinks "the popular objection to the introduction of bishops was chiefly political."

[36] Cross, 124–125 and note 1.

[37] Cross, 57–59; New York Documents, V, 849–858; VII, 363.

[38] Church History of Massachusetts, Documents, 452–453, 457; Beardsley, Life and Correspondence of Samuel Johnson, 245–246. Johnson says Apthorp "met with a better reception at first among the Dissenters (Congregationalists) than was anticipated. . ." In 1700 Dr. Bray of the Anglican church seems to have suggested that New England should not be considered as a field for Anglican activ-

In 1762 a bill passed the provincial House of Representatives, at the instigation of "Some gentlemen at the Western Extremity of the Province," for the purpose of founding a new college in Northampton. The Calvinistic Congregationalists seem to have coöperated with the Episcopalians in an effort to break the monopoly which the liberal Congregationalists had in higher education. When the council opposed the scheme, Governor Bernard ordered a charter to be given granting limited powers to the interested parties. Since the council had objected to the form of the charter as first passed by the House, the modification made by the governor seemed to him to be a satisfactory compromise. But the action of the governor raised such a storm of protest that he reconsidered the proposition and decided to drop the matter without issuing the charter.[39]

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ities. His plan was "not to intermeddle" with the Independency of that region. See Mode, Source Book of American Church History, 238.

[39] Mass. Hist. Soc. Collections, LXXIV, xxix, xxxiii, 30 note, 68–71; Hollis Papers, 1759–1771, 16–17; Quincy, History of Harvard University, II, 105; Bradford, Mayhew, 195; Province Laws, IV, 562. Governor Bernard writing to the Board of Trade April 12, 1762, gave his side of the case as follows:

"Some gentlemen at the Western Extremity of this Province projected a Scheme for founding a College and brought in a Bill for that purpose which passed the House and was rejected by the Council. The reasons given by the Council for rejecting it were, that the College was to be vested with University Powers; that the province could not support two Universities, they would interfere with one another. The Gentlemen then applied to me for a Charter under the Province Seal, and they agreeing to drop the powers excepted to, I ordered the charter to be made out which, giving no other powers but to hold Lands and Money, and sue and be sued, I thought must be unexceptionable. Nevertheless this would not do: a great Cry was made against this Charter upon two points—that it would be detrimental to the old College; that it would be injurious to the rights of the people. I had given so many proofs of my regard for the old College that there was no pretence to suspect me of a design to hurt it; and there was as little room to presume an injury to the rights of the people. For as the granting charters is a right belong-

During the same year in which the political horizon was clouded by the college charter affair another controversy arose which emphasized the alignment of the forces. A Society for the Propagation of Christian Knowledge among the Indians of North America was formed and incorporated by order of the General Court of the province. The act of incorporation was sent to England for approval. Due to the interposition of the Archbishop of Canterbury in behalf of the Anglican Society for the Propagation of the Gospel, the act was disallowed, to the great disappointment of the religious and political leaders in the province. The Anglicans in Massachusetts, as well as those in England, were opposed to the new organization. They feared there was

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ing to the King's Seal, and the Charter of the Province is entirely silent about it, it certainly belongs to the King's Seal within this Province in the same manner as it does in other Royal Provinces. Nevertheless, as the prosecution of this affair was no ways an interest of my office, and it might have impeded affairs of greater consequence, I put a stop to the Charter, still insisting on the King's right of granting Charters, tho' I did not think proper to persist in perfecting this particular one. Upon which the whole dispute immediately subsided. It however persuaded me that it would be necessary to guard against the King's right being impeached by an usage of granting incorporations by Act only, which I humbly submit to your Lordship's consideration."

Jonathan Mayhew, a prominent minister of the established church in the province, writing to Thomas Hollis in England on April 6, 1762, gives the other side. He wrote:

"This step has given an almost universal uneasiness and alarm; not only as we think the scheme itself of bad tendency, but also because we generally suppose, that the Governor has no such authority as he asserts, and has thus assumed to himself, of granting Charters. As soon as the Overseers of H[arvard] College (consisting of all the Members of his Majesty's Council, the congregational Ministers of Boston, and five other neighbouring towns) heard of the Governor's taking this step, and before the said Charter was actually issued, tho' sign'd and seal'd, they had a Meeting. And a Committee was appointed to draw up reasons against issuing said Charter, to be laid before his Excellency. Which has been done; those reasons, which are pretty lengthy, having been drawn up by your humble Servant, instead of some more capable person. The G[overnor] has some ulterior motive in the plan. Each party suspected the other.[40]

The death of the Reverend Ebenezer Miller, a missionary of the Society for the Propagation of the Gospel, in 1763, was the next signal for a clash between the parties. Shortly after his death, articles appeared in the newspapers, denouncing, in sharp language, the work of the Society. The writer charged it with misappropriation of funds, on the ground that the money donated for the purpose of converting Indians was being used for proselyting

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returned an answer to them in writing—such as it is. He has, however, promised to **suspend** said Charter. But he has intimated to us that the persons who sued for it, will make application home for another; in which we fear the G[overnor] will give them his countenance. There is accordingly a large Committee of the Board of Overseers (of which I have the honor to be one) appointed to transmit the Reasons against founding another College, to England, and to lodge them in some proper hands, to be made use of there, if there should be Occasion to prevent a Charter's being obtained from thence. Said Committee is also empowered to make use of any other means, which to them may seem proper, to the same End. This was but three or four days ago: and we have not yet had a meeting on the Occasion. So that I cannot inform you, to whom we shall more directly transmit the said reasons, or make our Application. Mr. Mauduit had been mentioned by some persons on the Occasion. When the Committee meets, I shall propose, if they are not sent immediately to you, that the person to whom they are sent, shall at least be desired to communicate them to you, and to some other worthy Gentlemen; whose united and friendly assistance we shall earnestly crave, if there should be occasion, to prevent a scheme's taking effect, which, we apprehend, would be of very pernicious consequence."

See also Beardsley, Samuel Johnson, 189ff.; Flick, Loyalism in New York during the American Revolution, 18ff.; Mode, Source Book of American Church History, 244–246; Smock, Religious Influences in the Colony of New York at the Opening of the American Revolution, 48–49. The founding of King's College (Columbia University) in 1754 caused a political and religious controversy in New York. The political leaders took advantage of the prejudices against the Anglican church.

[40] Church History of Massachusetts, Documents, 474–489; Mass. Hist. Soc. Collections, second series, II, 45–46; Acts of the Privy Council, Colonial Series, 1745–1766, 559; Mass. Hist. Soc. Collections, LXXIV, 75, 116–121. The last reference gives the correspondence of

from the Congregational churches. The fact that one third of the missionaries of the Society were in New England was given as evidence that the purpose of the Society was no longer the conversion of the Indians to Christianity.[41]

The Anglican clergy could not well afford to permit the challenge to pass without notice. The first to take up the cudgels was the Reverend East Apthorp of the Cambridge mission. Basing his argument on the charter itself and on precedents, he made a strong case in favor of the right of the Society to establish missions in the colonies in general. When, however, he proceeded to establish that the words "orthodox clergy" in the charter meant Anglican clergy, he took a position which was not in accord with the interpretation made by the law officers of the Crown in another case.[42] His further argument that

> "The means of public Religion are No means to him whose Conscience cannot use, or does not approve them: no more than Popery or

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Jasper Mauduit the provincial agent in England who had been sent to replace Williām Bollan, an Anglican. In the Documents on the Church History of Massachusetts the Reverend Mr. Caner (Anglican) wrote, "the zeal of the Dissenters here (referring to the Congregationalists) is not very expensive to themselves . . . . their friends in England & Scotland are induced to bear the burden." He probably knew that the purpose of the new organization was to appeal to England and Scotland for funds. On the other hand, the Society for the Propagation of the Gospel also got its funds from the mother country. Both the Congregationalists and the Anglicans apparently obtained money for missionary purposes from the mother country.

[41] Boston Gazette, Feb. 21, March 7, 14, 21, 1763; Perry, I, 410.

[42] Apthorp, Considerations on the Institution and Conduct of the Society for the Propagation of the Gospel in Foreign Parts; Mass. Hist. Soc. Collections, second series, II, 199–200. See above, page 71.

> Mahometanism afford the means of Religion to good Protestants who happen to reside in Popish or Mahometan countries,"

proved more than an Anglican who believed in a state church could afford to establish. It was the logical argument for a dissenter who believed in the separation of church and state.[43]

If Apthorp thought his arguments would silence the leaders of the Congregational church, he was soon to be disillusioned. The first to reply was the Reverend Jonathan Mayhew, whose facility with the pen had brought him into the limelight in 1750 and whose lot it was to gain the distinction of being called "the father of civil and religious liberty in Massachusetts and in America."[44] He argued for religious liberty as

> "the natural and legal right which protestants of all denominations have, in any part of his majesty's dominions, to worship God in their own way respectively, without molestation..."

He also insisted that the words "orthodox ministers" as used in the charter of the Society were meant to exclude "Romish priests and Jesuits" and that Apthorp's construction was contrary to the intent of the document. Mayhew thought the Society had no right to send missionaries into regions where "tolerable provision was made for ministers," even though they were not of the Anglican church. In the light of a modern historian's canon of ethics, the worst charge brought against Apthorp was his rearranging of quotations without indicating that the quotations were not verbatim.[45]

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[43] Mayhew, Observations on Apthorp's Pamphlet; Foote, II, 259; Apthorp as cited above.

[44] Thornton, Pulpit of the Revolution, 41–46; Foote, II, 259–263; Mass. Hist. Soc. Collections, LXXIV, xxiv.

The friends of the Society recognized the effectiveness of Mayhew's attack. One of them wrote, "I doubt whether any one here is duly qualified to answer it."[46] The Archbishop of Canterbury entered the arena against Mayhew. The death of the latter brought the Reverend Charles Chauncey to the fore as the defender of the Congregationalist argument. He had already attacked the theory of the Episcopal church in the Dudleian lecture at Harvard College in 1762.[47] He later became involved in a controversy over an American bishop with Thomas Bradbury Chandler. It was in the Chauncey-Chandler controversy that Chauncey made his argument against an established church, as follows:

> "We are, in principle, against all civil establishments in religion....It does not appear to us, that God has entrusted the State with the right to make religious establishments. If the State in England had this delegated authority, must it not be owned, that the State in China, in Turkey, in Spain, has this authority also? ....And as they must severally be supposed to exert their authority in establishments conformable to their own sentiments in religion, what can the consequence be but infinite

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[45] Mayhew, Observations etc., 19–20, 21ff., 84ff.; Bradford, Mayhew, 251.

[46] Church History of Connecticut, Documents, II, 39, 110. In 1767 Samuel Johnson wrote to the secretary of the Society that Mayhew opposed a Catholic bishop in Canada and suggested that it would be a "consolation to our Episcopalians" for they could get their ministers ordained in Canada. Johnson counted this as an insult.

[47] Chauncey, Validity of the Presbyterian Ordination; Perry, I, 411–412; Walker, Ten New England Leaders, 293; Beardsley, Samuel Johnson, 275ff.

> damage to the cause of God and true religion? And such in fact has been the consequence of these establishments in all ages, and all places."[48]

The opponents of the episcopate won, but, if those in high offices in the Episcopal church in America were not misinformed, it was by a very narrow margin. The British cabinet disappointed the Episcopalians once more. The taxation troubles in the colonies made it an inopportune time to raise the issue. When the Revolution came the Episcopalians were still without a resident bishop.[49]

For the first sixty years Massachusetts had no Episcopal church. Those few Episcopalians who came were not given a hearty welcome by the Puritans. The restored Stuarts, however, were anxious to have the Anglican church planted in the colony. With the passing of the Stuart dynasty the Puritans could feel securer from interference on the part of the Crown. King William, however, demanded toleration for all Protestant Christians. During the reign of Queen Anne plans were made to have a resident bishop in the colonies but before the project could be carried into execution George I ascended the throne. He was not interested in seeing the Anglicans become the dominant party in the colonies. After the Quakers were successful in defying the Congregationalists on the question of compulsory religious taxes, the Episcopalians were also favored by legislation. They were not granted exemption from the taxes but were permitted to have the money paid for the support of religious instruction made available for their own religious teachers. After that the greatest source of controversy between Congregationalists and Episcopalians in Massachusetts was the question of a resident bishop. There was also the question of education. The Episcopalians opposed the domination of Yale and Harvard by the Congregationalists. In general the British cabinet did not support the Episcopalians in the colonies in their controversies because it needed the support of the dissenters in England. When the Revolution came the Episcopalians had not succeeded in obtaining a resident bishop nor had they been successful in breaking down the monopoly which the Congregationalists had in the control of Yale and Harvard. On the other hand their church was gaining in strength.

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[48] Backus, II, 147, 152, 153, 223. He quotes from Chauncey's argument against the American episcopate. See also Chandler, The Appeal Farther Defended, 177.

[49] Beardsley, chs. xi, xii; Williams, Life of William Pitt, II, 294–295.

CHAPTER IV

REVOLUTION AND REORGANIZATION IN MASSACHUSETTS

In the years just preceding the armed conflict between the colonies and the mother country the patriotic party took advantage of the religious prejudices. Both sides recognized the powerful influence of the clergy, especially in New England.[1] At the opening session of the First Continental Congress Samuel Adams manifested his catholicity by nominating the Reverend Mr. Duché, an Episcopalian who later became a loyalist, to lead in the opening prayer. Lest his broadmindedness escape notice, he took the occasion to state that he was "no bigot."[2] His cousin, John Adams, attended religious worship in Presbyterian, Episcopalian, Roman Catholic, Quaker, Baptist, and Methodist churches while in Philadelphia during the sessions of the congress.[3]

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[1] Hansard, Parliamentary History, XVI, 498–499; Thornton, Pulpit of the Revolution, xxxvi, xxxviii; Van Tyne, Causes for the War of Independence, 361; Baird, Religion in America, 207ff.; Signers of the Declaration of Independence, VII, 241; Baldwin, The New England Clergy and the American Revolution, chs. viii, ix, especially 122–123 and notes; Wharton, Diplomatic Correspondence of the American Revolution, I, 319. Wharton gives the following dialogue between Thomas Hutchinson and George III:

Geo. III. "I have heard, Mr. Hutchinson, that your ministers preach that, for the sake of promoting liberty or the public good, any immorality or less evil may be tolerated."

T. Hutchinson. "I dont know, sir, that such doctrine has ever been preached from the pulpit, but I have no doubt that it has been publicly asserted by some of the heads of the party, who call themselves sober men, that the good of the public is above all other considerations, and that truth may be dispensed with and immorality is excusable when this great good can be obtained by such means."

[2] Wells, Life of Samuel Adams, II, 221ff.; Hosmer, Samuel Adams, 316; Cushing, Writings of Samuel Adams, passim.

In its attempt to enlist the support of the French Canadians in the war, Congress took action which made it appear almost ridiculous. The Quebec Act of 1774 confirmed to the Roman Catholic clergy "their accustomed dues and rights." The Puritan colonists considered this a dangerous precedent, and cited the Quebec Act as one of the evidences of imperial oppression. When Congress chose the committee to visit Canada, it chose two commissioners from Maryland, the Catholic province. One of these, Charles Carroll of Carrollton, was asked to persuade his kinsman, John Carroll, a Roman Catholic priest and later the first Catholic bishop in America, to accompany the commissioners. Apparently the commissioners were to secure the support of the French Canadians in a war against the British government, although one of the causes for the conflict was the fact that the Canadians had been granted too many privileges. It is hardly necessary to add that the commission failed to accomplish its purpose.[4]

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[3] Adams, Works of John Adams, II, 364, 378, 380, 382, 392, 395, 400, 401, 404. Both John and Samuel Adams recognized the importance of tolerance in holding the patriotic party together. In Virginia many of the prominent patriots were Episcopalians. See also Burnett, Letters of Members of the Continental Congress, IV, 297, 298.

[4] Leonard, Life of Charles Carroll, 117–119; Rowland, Life and Correspondence of Charles Carroll, I, 145ff.; Burnett, Letters of Members of the Continental Congress, I, 2, 21, 77–79; Smith, Our Struggle for the Fourteenth Colony, II, 325ff.; Lucas, Lord North, I, 132, 256; Journals of the Continental Congress, I, 105–113; IV, 152; Mass. Hist. Soc. Collections, fourth series, IV, 448; 14 Geo. 3 ch. 83; Wittke, History of Canada, ch. v. In 1770 Andrew Eliot wrote to Thomas Hollis on the subject of Canada as follows: "A gentleman of character from Canada, has been in Town (Boston); he informs that the popish interest in that Province has gained ground amazingly, since the introduction of a bishop, which was a favor the

That there were dangers in catholicity, the delegates from Massachusetts to the First Continental Congress were soon to discover. The Baptists in the province were constantly on the lookout for opportunities to proclaim their theory of religious freedom.[5] The crisis which brought the war seemed to them an opportune time to fight for liberty of conscience. Nor were they unwilling to accept it from either party in the conflict.[6] In 1774 their agent, the Reverend Isaac Backus, wrote to Samuel Adams, making an appeal for more freedom in religion.[7] A law was passed at that time which would have removed some of the objectionable features of the former laws, but, apparently due to the prorogation of the General Court on another issue, it was not signed by the governor.[8] At all events, the confused state of affairs tended to make the authorities more tolerant on local religious issues. But

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Canadians did not at all expect. Since his arrival, the Papists are insolent; refuse their churches to the Protestants, which these freely used before. . . . There is certainly, of late years, a secret influence in the British court in favor of the Romish church."

When the Quebec Act was passed Chatham called it a "breach of the Coronation Oath and a gross violation of the Protestant Religion." On the other hand, a British officer reported that the Canadians were not as loyal as Carleton had hoped they would be. There may have been a possibility of enlisting some in the Revolutionary cause.

[5] American Antiquarian Society Proceedings, April, 1879, 37–38; Backus, Seasonable Plea for Liberty of Conscience; Thornton, Pulpit of the Revolution, xxxiii note, xxxiv, xxxvii, xxxviii, and 304 note.

[6] Baldwin, The New England Clergy in the American Revolution, 122 note 3. The Reverend Hezekiah Smith, a Baptist minister in Boston, dined with General Gage and tried to obtain his support in behalf of the Baptist plan for religious liberty.

[7] Hovey, Life and Times of Isaac Backus, 195–199; Newman, History of the Baptist Churches in the United States, 356.

[8] Cushing, History of the Transition from Provincial to Commonwealth Government in Massachusetts, 77 note 5. Hovey, 200. See above, page 67 and note.

the Baptists wanted action. They carried their grievances to the Continental Congress. The whole delegation from Massachusetts was invited to attend the special meeting which was planned for a certain evening. When the delegates arrived, they found the stage set for a discussion of the establishment in Massachusetts. Some prominent Quakers from Pennsylvania joined with the Baptists in this meeting, leaving the delegation from Massachusetts in the minority. President Manning of the Baptist College in Rhode Island read a petition which contained the following statements:

> "It has been said by a celebrated writer in politics that but two things were worth contending for,—Religion and Liberty. For the latter we are at present exerting ourselves......and surely no one whose bosom feels the patriotic glow in behalf of civil liberty can remain torpid to the more ennobling flame of Religious Freedom."

He reviewed the grievances suffered by the Baptists in Massachusetts under the charter of 1691—a charter of which Governor Hutchinson had said:

> "We find nothing in the new charter, of an ecclesiastical organization. Liberty of conscience is granted to all except Papists."[9]

The Lockean doctrine in this form irritated John Adams and his colleagues. They had the choice of arguing against Locke or against the Congregational establishment in Massachusetts. Neither horn of the dilemma was inviting. Adams blamed Israel Pemberton, a Quaker whom he called an "artful

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[9] Hovey, 204–210, 349; Newman, 357; Mode, Source Book of American Church History, 291–293. For the memorial read by Manning see Hovey. Mode gives a part of it.

Jesuit," for using this method to "break up the congress."[10] The next year he wrote to James Warren, referring, no doubt, to this occasion:

> "Last Fall the Quakers and Antipoedobaptists were conjured to pick a Quarrell with Massachusetts; . . . The Quakers and Anabaptists were hushed and abashed, or rather the reasonable conscientious Part of them were convinced in one evening."[11]

A report was circulated in New England to the effect that the Baptist committee had gone to Philadelphia to participate in a movement to prevent united action among the colonies. It appears that Robert Treat Paine of the Massachusetts delegation was responsible for the rumor. Backus, as head of the committee that had gone to Philadelphia and as the agent for the Warren Association, gave the official reply. Addressing himself to the provincial congress which was in session at Cambridge, he summed up the demands of the Baptists. He pointed out that they demanded the same privileges that the people of Boston had long enjoyed.[12] There were some delegates in the provincial congress who did not appreciate the significance of the religious issues until it was made clear to them that offending the Baptists might bring "division among the provinces." A committee was named to consider the Baptist demands. As a result of its work a resolution was passed on December 9, 1774, which was no doubt intended to quiet the fears of the Baptists.[13]

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[10] Hovey, 349ff. and appendix F; Works of John Adams, II, 397–400.

[11] Mass. Hist. Society Collections, LXXII, (i), 167–168.

[12] Hovey, 214; Newman, 358–359; Backus, II, 202; Literary Diary of Ezra Stiles, II, 470–475; III, 23, 51. Stiles called Manning a Tory and distrusted the Baptists in general. He reports that the Baptists in Rhode Island used their influence for selfish ends. After Lexington and Concord they promised to aid Massachusetts in the struggle if the persecuting laws would be abolished.

Following the suggestions in the resolution, the Baptists brought a memorial to the General Court at Watertown in 1775. The memorial led to the appointment of a committee of seven (three of whom were Baptists), which reported that the Baptists should be granted leave to bring a bill for the redress of their grievances. In the discussion Major Joseph Hawley, probably the most prominent patriot in the western part of the province, took advantage of the occasion to state that he was opposed to any form of religious establishment. No agreement could be arrived at, however, and, since other affairs demanded the attention of the General Court, the memorial was left on the files for later consideration.[14] The Warren Association backed a plan to organize all the Baptists in the colonies for a united effort in behalf of religious freedom. The

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[13] Journal of the Massachusetts Provincial Assembly, 1774–1775, 65–66; Hovey, 221–223; Newman, 359; Backus, II, 202–203. The committee consisted of Mr. Sullivan, Mr. Sayer, and Mr. Pickering. The resolution reads as follows:

"Resolved, That the establishment of civil and religious liberty, to each denomination in the province, is the sincere wish of this Congress; but being by no means vested with powers of civil government, whereby they can redress the grievances of any person whatsoever, they therefore recommend to the Baptist churches, that, when the general assembly shall be convened in this colony, they lay the real grievances of said churches before the same, when and where their petition will most certainly meet with all the attention due to the memorial of a denomination of christians so well disposed to the public weal of their country."

[14] Hovey, 226–229; Newman, 360; Works of John Adams, I, 149; Diman, Orations and Essays, 221; Clune, Joseph Hawley's Criticism of the Constitution of Massachusetts, 5, 41; Massachusetts Historical Society Proceedings, L, 376. An effort was made to have the memorial removed from the files but it was not successful.

Baptists, therefore, were contending for both religious and political freedom during the Revolution.[15]

As the war went on it became evident that the Baptists were gaining in numbers, especially in New England.[16] In Middleborough there were six score added to the Baptist church from 1773 to 1775. In Attleborough thirty were added in ten months. In Providence, Rhode Island, an increase of over one hundred was reported. Pittsfield, Adams, Lanesborough, and Hancock showed definite gains for the Baptist church.[17]

During the war the Baptists were not lacking in patriotism. Only one loyalist seems to have been found among their ministers. There were a few among their laymen, but in general their record for

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[15] Baldwin, The New England Clergy and the American Revolution, 108–111, 117; Hovey, 228–231; Newman, 360–361; Mode, Source Book on American Church History, 294–295; American Historical Association Papers, II, 23–30. Mode gives a memorial from the Virginia Baptist Association to the House of Delegates in that state in 1780. They demanded liberty of conscience. An article in the Bill of Rights of the Virginia Constitution of 1776 was later interpreted as being a provision for disestablishment. See also Smock, Religious Influences in the Colony of New York at the Opening of the Revolution, 109, 144.

[16] For evidence of the growth of the Baptist church in New York during this period see Smock, 26ff.

[17] Baldwin, 109; Newman, 271–272; Backus, II, 391–402; Diman, 221; Clark, Congregational Churches in Massachusetts, 202. Statistics for the period from 1768 to 1790 show the growth of the Baptists and Congregationalists as follows:

Baptist churches

Date	Massachusetts	Connecticut	Rhode Island
1768	30	36	12
1790	92	38	55

Congregational Churches in Massachusetts

1770	294
1780	310
1790	330

The religious societies in the Congregational church were generally larger than in the Baptist church.

patriotism compares favorably with that of any denomination in the province of Massachusetts.[18]

From June 17, 1774, to October 25, 1780, there was no constitutional government in the province. The towns generally managed their own affairs, although there were conventions which tried to keep the several towns in the counties working together. The provincial congress was a revolutionary organization which acted for the province as a whole. External pressure had the double effect of making for more tolerance within the patriotic party and of holding the various parts of the province together.[19]

The patriotic group in the clergy of the Congregational church played an important part in the Revolution. The clergy had long been noted for their political influence, and in this crisis they lived up to their reputation. They revamped their theological views in such manner as to give the least possible offense to patriotic dissenters on the one hand, while they used Locke with telling effect for the cause of political liberty on the other. Holy Writ furnished many a text for which Locke supplied the argument. The principles of civil government were combined with those of traditional Christianity to produce an effective message for a crusader. The soldiers went forth to fight for civil and religious liberty. British soldiers, on the other hand, were branded as "robbers and savages."[20]

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[18] Backus, II, 247, 475. The author challenged his religious opponents to name a single Baptist on the list of three hundred and eleven names of persons proscribed in the act of 1778. He admits that some Baptists from Hancock went over to Burgoyne's army at Bennington. Many of the Episcopalians in Massachusetts were loyalists. See Foote, II, 307–309 and Sabine, Loyalists in America, 50, 51, 119, 125, 126, 144, 192–193, 206, 227, 239, 403, 462, 471, 485, 720. For evidence of loyalism in the Congregational church, see Morse, Federalist Party in Massachusetts, 124 and Appendix J; Sabine, 136, 190, 240; Smith, History of Pittsfield, I, 395; Packard, History of the Franklin Association, 129–131, 356–361, 389–399; Thompson, History of Greenfield, I, 255–259; History of Hingham, II, 44.

[19] Haynes, Struggle for a Constitution in Massachusetts, 29–31; Hovey, 200; Cushing, History of the Transition from Provincial to Commonwealth Government in Massachusetts, chs. iv, v.

In preaching the Lockean doctrine of liberty the ministers sometimes struck, rather inadvertently, at the very root of the establishment in the province. In 1776 one of them said:

> "for the civil authority to establish particular modes of faith and forms of worship, and to punish all who deviate from the standard which our superiors have set up, is attended with the most pernicious consequences to society. It cramps all free and rational inquiry, fills the world with hypocrites and superstitious bigots—nay, with infidels and skeptics; it exposes men of religion and conscience to the rage and malice of fiery, blind zealots, and dissolves

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[20] Anburey, Travels in America, II, 46–47, 64–65; Van Tyne, 401–405; Thornton, Pulpit of the Revolution, xxxiii, xxxvii, xxxviii, 237, 270, 274, 307; Cushing, 121–122; Baldwin, chs. viii, ix, xi. Thornton gives the address to the clergy from the provincial congress in Massachusetts. A part of it reads as follows: "In a day like this, when all the friends of civil and religious liberty are exerting themselves to deliver this country from its present calamities, we cannot but place great hopes in an order of men who have ever distinguished themselves in their country's cause; and do, therefore recommend to the ministers of the gospel of the several towns and other places in the colony, that they assist us in avoiding that dreadful slavery with which we are now threatened, by advising the people of their several congregations, . . . to abide by, and strictly adhere to, the resolutions of the Continental Congress . . ."

Thornton also quotes a letter prepared by the Dean of Gloucester in 1775, in which he tried to counteract the influence of the ministers in America, "occasioned by their preferring and inculcating principles of Mr. Lock instead of the Gospel, relative to the original titles of civil governors."

Another writer said "The Clergy had quite unlearned the Gospel, & had substituted Politicks in its Stead." See Baldwin, 122 note 1.

> every tender tie of human nature; in short, it introduces confusion and every evil work."

Yet, in spite of this pronouncement against an established church, he argued in the same sermon in favor of laws for the maintenance of public worship because they were "absolutely necessary for the well-being of civil society."[21] The two expressions seem to contradict each other. By this generation, which has lived through a period during which public school teachers were not allowed to criticise the Constitution, such contradictions should, at least, be understood. In neither case did the proponents of the theories wish to cramp "free and rational inquiry," but they emphasized the importance of the "well-being of civil society."

The war developed a greater confidence in human nature, a development which vindicated, for the time, the idea of the dissenters for the voluntary support of worship. It was a minister in the Congregational church who called attention to this fact when he said "some hundred thousand people" were living "in a state of nature," and yet there was peace as though there were a government "in full vigor." He, as well as the dissenters, seems to have overlooked the fact that the solidarity of society at that time was due to a common enemy. When the war was over, it was soon made evident that the state of nature did not bring the peace and order that most people demanded.[22]

While there was no effective government in the province the dissenters had little reason to complain about religious restrictions; but no sooner were plans made for a new frame of government than the establishment was again a major issue. As early as 1776 Pittsfield asked for a new form of government based upon the will of the people.[23] Other towns made similar demands.[24] Notwithstanding these demands, the General Court was unwilling to turn so much power over to the people. It named a committee from among its own members to draw up a plan which, after revision by the whole body, was sent to the towns for ratification. The part of the new plan upon which it was most difficult to reach an agreement was that which provided for the religious establishment. In the draft made by the committee a single article mentioned religion. It simply provided that all officers of the commonwealth should be Protestants. In the General Court, sitting as a convention, an article was introduced providing for liberty of conscience, but it was rejected.[25] Later an article was added which provided that

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[21] Thornton, 298–299, 312.

[22] Backus, Church History of New England, 194. Shays's Rebellion gives the other side of the picture. It caused many to lose confidence in the "state of nature" basis of government.

> "The free exercise and enjoyment of religious profession and worship shall be allowed to every denomination of Protestants within the State."[26]

An unsuccessful attempt was made to add an amendment to make it unlawful to tax anyone for the support of religious instruction upon which he did not attend.[27]

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[23] Smith, History of Pittsfield, I, 351ff. gives the document. See also Baldwin, 142; Cushing, 197–198; Morison, History of the Constitution in Massachusetts, 14.

[24] Cushing, 201. Ashfield "Voted that it is Our Opinniun that we do not want any Goviner but the Goviner of the univarse and under him a States Ginaral to Consult with the wrest of the united states for the good of the whole, . . ."

[25] Haynes, 89–91, 242–246; Morison, History of the Constitution of Massachusetts, 14–16.

[26] Haynes, 245; Article XXXIV of the proposed constitution.

The proposed constitution as revised by the General Court was sent to the towns for ratification by the male voters twenty-one years old and above, a two-thirds majority being required for ratification.[28] The Baptist agent of the Warren Association opposed the adoption, demanding a statement,

> "that ministers shall be supported only by Christ's authority, and not at all by assessment and secular force; which impartial liberty has long been claimed and enjoyed by the town of Boston."

He also sent an address to the General Court on the subject.[29] The minister of the established church, who preached the election sermon while the towns were voting on the proposed frame of government, commended it and urged its acceptance. He pointed out that it would be "an easy step from the old to the new form" of government, and that if the people rejected it the probabilities were they would never obtain a better constitution. In his mind the "terrors of eternity" were especially effective as a restraining influence in government. Continuing his discourse he said:

> "Established modes and usages in religion ....so generally form the principles and manners of a people, that changes....may well be esteemed very dangerous experiments in government. For this, and other reasons, the thoughtful and wise among us trust that our

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[27] Haynes, 245.

[28] Morison, History of the Constitution of Massachusetts, 15.

[29] Hovey, 232–233; Backus, History of the Baptists, II, 219.

> civil fathers, from a regard to gospel worship and the constitution of these churches, will carefully preserve them, and at all times guard against every innovation that might tend to overset the public worship of God,....Persons of a gloomy, ghostly, and mystic cast, absorbed in visionary scenes, deserve but little notice in matters of religion or government. Let the restraints of religion once be broken down, as they infallibly would be by leaving the subject of public worship to the humours of the multitude, and we might well defy all human wisdom and power to support and preserve order and government in the state."[30]

But the minister proved to be a priest rather than a prophet. He was not a leader of the people in the commonwealth. In Essex County the towns sent delegates to a county convention at Ipswich, where the proposed form of government was discussed. The report of the convention came in the form of a critique of the proposed constitution called the "Essex Result." This analysis from the pen of Theophilus Parsons is significant as a statement of principles. In it the thirty-fourth article of the proposed frame of government was characterized as

> "exceptionable, because the rights of conscience were (are) not therein defined and ascertained; and further, because the free exercise and enjoyment of religious profession and worship were (are) there said to be allowed to all Prot-

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[30] Thornton, Pulpit of the Revolution, 331 note a, 325–328, 339–341. The author of the sermon was the Reverend Phillips Payson who had been "extremely moderate" in the political activities of the Revolution till the day of Lexington and Concord. Later he seems to have been quite patriotic. See Baldwin, 163.

> estants in the State, when in fact that free exercise and enjoyment is the natural and incontrollable right of every member of the State."[31]

The proposed constitution was defeated by a vote of approximately five to one. The causes of this overwhelming defeat were as follows: (a) It was drawn up by the General Court, not by a convention; (b) it contained no bill of rights; (c) there was no definite settlement of the religious problem in it; (d) the slavery question was not satisfactorily settled; (e) the draft was imperfect; (f) it did not clearly define the powers of the government; (g) the basis of representation was unsatisfactory.[32]

The dissenters rejoiced at the defeat, for they had no need of a strong government to collect ministerial rates, nor were they inclined to favor the development of such an instrument for the use of the established Congregational church. Large numbers were leaving the established church, or, at any rate, were no longer paying the taxes for its support. Those who did pay generally paid in paper money, leaving the ministers who received their salaries in the cheap money to face starvation. Such a condition might well cause a minister of the established church to favor some form of government in which "the civil fathers" would "carefully preserve" the established form of religion. The prejudice between the members of established church and the Baptists seems to have caused mob violence in one town.[33]

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[31] Parsons, Memoir of Chief Justice Parsons, 50; Morison, History of the Constitution of Massachusetts, 16–17; Cushing, 223ff. Parsons writes, "I cannot persuade myself to deal severely with the fancy that the blood of Robinson of Leyden speaks in the last vote." He refers to the vote on the adoption of the "Essex Result."

[32] Haynes, 261; Parsons, 46; Wells, Samuel Adams, III, 81–82; Massachusetts Historical Society Proceedings, VIII, 294–313; Hart, Commonwealth History of Massachusetts, III, 182–187; Morison, History of the Constitution of Massachusetts, 16; Cushing, 214ff. Morison thinks the omission of the bill of rights was enough to insure the defeat of the proposed constitution. The Reverend William Gordon, chaplain of the House of Representatives, asserted that the proposed constitution was framed with the express purpose of having it rejected. For this assertion he seems to have been relieved of his office.

The severe reverse suffered by the patriot army in Rhode Island in 1778 was attributed to "accursed things" in a sermon by the Reverend Charles Chauncey. One of the "accursed things" which he mentioned was the paper money salaries for the ministers of the Gospel. By a strange coincidence Chauncey's sermon with favorable comment appeared in the newspapers at the same time with an article from the pen of the Reverend Isaac Backus, the Baptist agent of the Warren Association. Backus quoted a statement made by Chauncey which he interpreted as opposed to an establishment. The argument from Chauncey was made against the Episcopal establishment, but Backus claimed it was just as valid against the Congregational establishment. The two statements of Chauncey appearing at the same time gave rise to another newspaper controversy which added little glory to either side. Apparently the prejudice between dissenters and Congregationalists was unallayed.[34]

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[33] Backus, II, 219ff.; Hovey, 233. In Pepperell the Baptists were about to baptize six candidates for admission into the church when a mob, in which the town officers seem to have taken a part, interfered with the ceremony. In order to cast reflection on the Baptists a man was hired with liquor to go into the river and dip another. Several dogs were dipped at the same time. The Baptist minister was threatened and warned to leave the town.

[34] Backus, II, 222ff.; Hovey, 233ff.; Nourse, History of Harvard, 340; Chandler, The Appeal Farther Defended etc.; Humphrey, Nationalism and Religion in America, 53, and note 4. Chauncey's text for the sermon on "accursed things" was taken from Joshua, ch. vii. His argument quoted by Backus reads, in part, as follows: "We are

The need of a constitution was becoming more and more urgent. Berkshire County was practically independent, or in revolt against the authorities of the commonwealth. When appeals came to the General Court from several towns that favored holding a special convention, the General Court referred the question to the towns. The towns voted in favor of it. This was in the very dark period of the war when the outcome was extremely doubtful. In 1779 the General Court called upon the Reverend Samuel Stillman of the First Baptist Church in Boston to preach the election sermon. It would be difficult to interpret this action in any other light than as an effort to maintain harmony in the patriotic party. Stillman took advantage of the occasion to outline the Baptist ideal—"The Sacred Rights of Conscience"—and attempted to draw the line "between the things that belong to Caesar, and those that belong to God." Locke was drawn upon for the argument on the compact theory of the state and the equality of men.[35]

The constitutional convention held its sessions

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in principle, against all civil establishments in religion, ... nor has one denomination any more right to the interposition of the civil magistrate in their favor than another. . . . If the country might be taxed four pence in one hundred pounds, it might for the same reason and with as much justice, if it was thought that the support of bishops called for it, be taxed four shillings, or four pounds. . . ."

[35] Cushing, Transition from Provincial to Commonwealth Government in Massachusetts, 227ff.; Stillman, Election Sermon, 1779; Haynes, 166–167; Morison, History of the Constitution of Massachusetts, 18–21. Stillman argued for a Bill of Rights in the constitution. He also maintained that the sacred rights of conscience cannot "be parted with" in spite of the fact that "attempts have been repeatedly made by an ambitious clergy, assisted by rulers of despotic principles," to do so. His argument against taking a man's property without his consent was in accord with the philosophy of the Revolution. It was also a good argument against an established church.

from September 1, 1779, to June 16, 1780. It delegated the work of preparing the first draft to a committee of three—the two Adamses and James Bowdoin. John Adams was the sole author of the first draft, excepting the Third Article in the Declaration of Rights, which was to define the relation between the individual and the state in matters pertaining to religion and worship. He could not solve that problem to his own satisfaction, so he left it for another committee. The convention named a committee of seven to wrestle with it. That committee was divided four to three in favor of giving the General Court the authority to compel the several towns and parishes in the commonwealth to support public teachers of religion. One member of the committee, although he was a member of the Congregational church, opposed any form of church establishment. An entire session of the convention (from October 28, to November 11, 1779) was devoted to the discussion of the Declaration of Rights. The clauses that provided for the church and state relations caused more controversial discussion in that session than any other issue.[36]

The argument of those who favored the establishment seems logical if one accepts the major premise.

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[36] Haynes, 242, 248; Morison, History of the Constitution of Massachusetts, 19–20; Hart, Commonwealth History of Massachusetts, III, 190–191; Wells, Samuel Adams, III, 88; American Society for Church History, Papers, VI, 160–161; Parsons, Parsons, 55–56; Partridge, History of Bellingham, 134–135; Hovey, 238; Massachusetts Historical Society Proceedings, XIII, 300–301; L, 368–369. The committee was composed of "two future governors of the Commonwealth (Samuel Adams and Caleb Strong), a future Judge (Robert Treat Paine), and Chief Justice (Theophilus Parsons), of the Supreme Court, one of the leading patriots of Western Massachusetts (Timothy Danielson), the minister of the Second Congregational Church in Medway (Rev. David Sanford), and the minister of the First Baptist Church in Bellingham (Rev. Noah Alden)."

That premise is, that civil government is based upon, or depends upon, piety, morality, and religion, which can be diffused only by public worship.[37] The minor premise is that the people have the right to invest the legislature with the "power to authorize and require" the several towns and parishes to make provision for the support of public worship. In inserting the specific requirement for "public Protestant teachers" it was probably assumed that only Protestant teachers would meet with the approval of the majority of the people in the commonwealth.

While the convention was in session Major Joseph Hawley wrote to Samuel Adams, suggesting to him that there should be no "uncertainty in the Diction of the Constitution,. . . ."[38] As one reads the Third Article of the Declaration of Rights in the light of this letter, one wonders whether Hawley had heard rumors of what was to be in it. As finally submitted to the people, it provided for a general tax for the support of the teachers of religion who were to be elected by "the several towns, parishes, precincts, and other bodies politic, or religious societies, ..." In the pre-Revolutionary regime some dissenters were exempt from the tax, but now the wheels of time were to be turned back to the first quarter of the century, to the time when the religious tax was general. It was provided, however, that the money paid by any person could be applied to the support of the religious teacher upon whose instruction he attended. Those who made no other arrangements automatically paid for the support of the religious teacher of the town, parish, precinct, etc., yet it was specifically stated in another clause that

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[37] Clune, Joseph Hawley's Criticism of the Constitution of Massachusetts, 41. Hawley challenged the premises upon which the Third Article was based.

[38] Ibid., 10.

> "every denomination of Christians, demeaning themselves peaceably, and as good subjects of the commonwealth, shall be equally under the protection of the law: and no subordination of any one sect or denomination to the other shall ever be established by law."[39]

Major Hawley suggested that the looseness of the article was due to the fact that it was impossible to provide for a religious establishment that was consistent with the rights of conscience. As a lawyer, he maintained that the first four paragraphs of the Declaration of Rights were well calculated to "afford plenty of that uncertainty, which is the source of the emoluments of the men of his (my) profession."[40] He was right in his prophecy. The interminable discussions and the prolonged litigation on the religious clauses are a reflection on the men who wrote them. At least one of the members of the committee on the Third Article was later, as a judge, compelled to interpret the language of the article. He added nothing to his reputation in doing so.[41]

The members of the convention anticipated opposition to the Third Article in the Declaration of Rights. It was the only part of the proposed constitution that was specifically named, explained, and defended in the address to the people who were to vote on the frame of government. According to the address the Declaration of Rights "provided for the free exercise of the right of conscience." To make the article appear in the best light to the various denominations, it was stated that it "underwent long debates. . . .managed by persons of the various denominations." It was also pointed out, in oracular language, that the article "was finally agreed upon with much more unanimity than usually takes place in disquisitions of this nature."[42]

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[39] Appendix A gives the first three articles of the Declaration of Rights. See also Massachusetts Historical Society Proceedings, L, 371. In the latter mentioned reference Professor Morison summarizes the reactionary features of the Third Article.

[40] Clune, Joseph Hawley's Criticism of the Constitution of Massachusetts, 42; Hart, Commonwealth History of Massachusetts, III, 197.

[41] Massachusetts Historical Society Proceedings, L, 369 note 2. See also chapter v below.

Eighteen hundred copies of the proposed constitution were printed and sent out to the towns where the people were to discuss and vote on it. No newspaper seems to have been sufficiently interested in it to print the whole document. Since many who had a vote on the constitution did not have the opportunity to read it in full, the address probably had great influence on them.[43]

The proposed constitution was sent to the selectmen of the various towns who were to lay it before the inhabitants in their respective towns. If the major part of the inhabitants of a town disapproved of any part they were to state their objections and the reasons for them. The votes on the various articles were also to be sent back to the convention. Any article which did not carry by a two-thirds vote was to be altered to be made agreeable to two-thirds of the voters. A second resolution recommended to the inhabitants of the several towns that they empower their delegates at the next session of the convention to agree upon a time when the new frame of government was to go into effect,

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[42] Wells, Samuel Adams, III, 90–96; Massachusetts Historical Society Proceedings, VIII, 302; L, 57. Wells gives the address in full. He claims the authorship of it for Samuel Adams. In the fifteenth paragraph of the address one reads that "religion must at all times be a matter between GOD and individuals; . . ." Immediately after this statement the test oath is defended.

[43] Massachusetts Historical Society Proceedings, L, 57–60; Wells, Samuel Adams, III, 90. Wells thinks the address "materially aided in securing the popular assent to the work of the Convention." Almost immediately after the constitution was adopted and the new government was in office the town of Middleborough took steps to overthrow it. The plan was to call a meeting of delegates. In the call the reasons for opposing the new government are given. The method of voting on it as well as the time allowed for the consideration of it in town meetings is severely criticised. The new constitution was called "a huge monster whose uncouth and unhallowed Strides may Crush the people to a State of abject Slavery. . . ."

> "without returning the same again to the People: Provided that two thirds of the Male Inhabitants of the Age of twenty one years and upwards, voting in the several Town and Plantation Meetings shall agree to the same, or the Convention shall conform it to the Sentiments of two thirds of the People as aforesaid."[44]

Anyone who is familiar with the procedure of a town meeting on a matter as complicated as the discussion of, and voting on, the various articles of a constitution can appreciate how difficult it would have been for a convention to include in its revisions all the suggestions that came from the town meetings. The convention did not attempt that superhuman task. It seems to have counted as in favor of an article all those who did not definitely and specifically vote in the negative on it, if the votes were needed to pass the article. This is the procedure which Professor Samuel Eliot Morison has called political jugglery.[45] Major Joseph Hawley, a contemporary critic wrote:

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[44] Massachusetts Historical Society Proceedings, L, 358ff.; Morison, History of the Constitution of Massachusetts, 21; Haynes, 210; Cushing, 264; Channing, History of the United States, III, 142. Approximately 16,000 people voted on the constitution out of a population of over 350,000. One seventy-second of the people of Plymouth voted on it.

> "In the first place I believe it will require the industry and distinguishing faculties, of beings superior to the human kind, satisfactory (sic) to determine from such returns, what the sentiments are, in which the said two thirds of the people, are agreed."[46]

The convention met for the fourth and last session in June, 1780, at which time the proposed frame of government was declared accepted by the people. Four months later John Hancock was inaugurated as the first governor of the commonwealth.[47]

The Reverend Isaac Backus, representing the Baptists, led that denomination in its opposition to the Third Article. In the convention the "ancient atrocities of the German Anabaptists were raked up" to discredit the denomination. Later in the newspaper controversy one writer took the liberty to class Baptists with

> "Disguised tories, British emissaries, profane and licentious deists, avaricious worldlings, disaffected sectaries, and furious blind bigots. . . ."

Backus challenged the authors of these rumors and prejudices to appear before "any proper judge" to prove their statements.[48]

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[45] Morison, History of the Constitution of Massachusetts, 21.

[46] Clune, Joseph Hawley's Criticism of the Constitution of Massachusetts, 39ff.; Massachusetts Historical Society Proceedings, LXIX, 79-81.

[47] Cushing, 277-279; Morison, History of the Constitution of Massachusetts, 21-22.

[48] Hovey, 238-239; Backus, II, 225ff.; Hart, Commonwealth History of Massachusetts, III, 197; Massachusetts Historical Society Proceedings, L, 363, 368.

In spite of the fact that, according to the address, religion was to be a matter "between GOD and individuals" under the new frame of government, there were imprisonments for refusal to pay the religious taxes, even before the inauguration of Hancock. In 1781 distraint was made on several Baptists in Ashburnham.[49] Three years later three men were imprisoned in Cambridge on similar charges. They were members of the Baptist church in the town, but had made out no certificates because they thought that pre-Revolutionary requirement had lapsed. After fighting the case in the courts, the only recourse for Baptists was to make out the certificates, after which, instead of the exemption from the rates as in pre-Revolutionary times, their minister could collect the money from the town treasurer. Many Baptists opposed the certificates because they considered them a recognition of the right to set up an established church, though the majority accepted them as the lesser evil.[50] Before the Revolution those Baptists who obtained certificates were exempt from the church rates. Under the constitution no such exemption was granted to them. No doubt the political and religious leaders hoped to check the growth of the denomination by taking away the economic advantage which it might have gained through exemption.

A law passed in 1786 confirmed the parish and precinct boundaries and provided for the administration of parish affairs. The parish meeting was authorized to

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[49] Backus, II, 463–465. He says pewter, a cow, grain and other property was taken "to the use of the robber and the minister it was robbed for."

[50] Backus, II, 328–329, 457–458; Guild, Manning and Brown University, 331, 349.

> "grant and vote such sum or sums of money as they shall judge necessary for the settlement, maintenance, and support of the ministers or public teachers of religion; for the building and repairing of houses of worship, and all other necessary parish or precinct charges, to be assessed on the polls and property within the same as by law provided. And the inhabitants of each respective parish and precinct are hereby declared to be a body corporate......"

Provision was made in the law for the setting off of precincts from the parishes. This seems to have been interpreted to mean that a number of inhabitants could set up their own church, if other than Congregational, and support their own minister by a tax on the pews.[51] The law came with the conservative reaction in politics and was opposed by all those who demanded the extension of individual liberty. The reaction was one of the causes of Shays's Rebellion.[52] The establishment was reinstated and the sects were again subordinated in spite of the constitution of 1780.

The reaction toward a more strictly defined establishment after the Revolution seems extraordinary because the tendency of the time, especially in the other states, was in the opposite direction; but there were several good reasons for it in Massachusetts. The avalanche of liberty which was preached and practiced during the war, together with the stress and strain of the struggle, left many people in a state of mind that made an excess of liberty a danger to society and a boon to doctrinaires with new theories for this world as well as the next. There were groups that had gone to great extremes even before the Revolution, but their influence was not as dangerous in the pre-war atmosphere as it was during the Critical Period. Robert Sandeman and James Relly were looked upon as intruders before the war, but their influence, which never was great, was lessened by their Toryism during the war.[53] Of all the new sects after the war, the Shakers showed some of the worst effects of the "shell shocks" of the war. As early as 1753 Shadrach Ireland of Charlestown had held unorthodox views. He seems to have been haunted by his own mind fearing the authorities of the province. He went to the town of Harvard, where he was concealed at first, but later met with his followers in public. In spite of his claim to immortality in the flesh, he died about 1778, (he was not interred by his deluded followers until nine months after his death). Soon after his death Mother Ann Lee came to Harvard. With her, Shakerism had its beginning. She made her headquarters in the house in which Ireland had died. The extravagances of some of the Shakers soon attracted the attention of the General Court, which came within one vote of passing a measure to punish them. What the General Court failed to accomplish was undertaken by a mob, not entirely without the moral support of the civil and military authorities. Deacon Fairbanks was said to have furnished two barrels of cider for the occasion. The first attempt to expel the Shakers by violence was halted, however, by a ministers' meeting. Later it was actually accomplished.[54] Another group of fanatics was led by Jemima Wilkinson, who had actually died, if one chooses to credit her testimony, and after her resurrection claimed the power to work miracles.[55]

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[51] Buck, Ecclesiastical Law, 38–39, 249–252. See also Appendix A in Buck.

[52] Backus, II, 329 note 1; Barry, History of Mass., III, ch. vi; Bradford, History of Mass., III, 21; Holland, History of Western Mass., chs. xvi–xviii. The law of 1786 provided for a fine for anyone who refused to serve as a tax collector. The court of general sessions was to exact the fine. The towns were no longer entrusted with the management of religious affairs.

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[53] Sabine, The American Loyalists, 50, 591; Backus, II, 296; Hovey, 149 and Appendix C; Morse, Narrative of the Proceedings of the Baptist Church in Medfield against James Morse; Walker, The Sandemanians of New England, 134–135, for an account of their beliefs; 148, 154, 156, for their Toryism during the Revolution. The Sandemanians were opposed to governmental interference with ecclesiastical affairs. They agreed with the Baptists on that point but in other respects they differed widely.

The more popular and "dangerous heresies," however, in the minds of the orthodox people of the time, were Universalism and Arminianism. The Baptists seem to have been especially easy marks for these new doctrines. In Grafton and Douglas the Baptist ministers accepted the idea of universal salvation.[56]

These fanatics and extremists discredited freedom in religious affairs and provided an effective argument for those who favored an established church. It was this group that helped to make possible the establishment under the new constitution. They made the thesis of religious liberty a difficult one to defend and to popularize. Men showed a lack of self control; liberty all too readily merged into license.

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[54] Nourse, History of Harvard, 253–266; Backus, II, 297–298, 462–463. Backus called their belief in celibacy a doctrine of devils.

[55] Backus, II, 298–299; Atlantic Monthly, CXLII, 348–350. The latter mentioned gives the account of Barbé-Marbois of a religious service conducted by Jemima Wilkinson in Philadelphia in 1799. It is taken from his diary.

[56] Smith, History of Pittsfield, I, 452–455; Backus, II, 462–465. The Baptist minister in Pittsfield became a Shaker, but later he left the society and was in favor of using force against them.

There was another reason why the proponents of the establishment made such a firm stand at that time. It was the growth of the dissenting denominations, especially the Baptists. It is a truism to state that men do not give up power and influence without a struggle. The ministers of the established church had long been noted for their influence, which was waning with the growth of the dissenting sects. These ministers recognized the decay in religion, and as defenders of the "Walls of Zion" they battled valiantly against the enemy.[57]

The growth of the Baptists was due to several causes. They were more consistent than the Congregationalists in their application of the popular doctrines of Locke and Rousseau. They stood for democracy, even in the choice of their ministers, who were chosen directly from the congregations. Another factor which made them popular was their stand against the compulsory tax for the support of worship. In the period following the Revolution money was scarce, and economic conditions were generally bad. From 1765 to 1790 there were many revivals among the Baptists. Backus mentions such activities at Haverhill, Rowley, Danvers,

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[57] Clark, Congregational Churches in Mass., 218–220; Thornton, Pulpit of the Revolution, 373ff.; Election Sermon 1780; Thacher, Observations upon the Present State of the Clergy in New England. Thacher argued that "In the same proportion as the spirit of religion declined, have declined also the respect and attachment of the people to the clergy, their solicitude to do them justice, to keep them from want, or provide for their old age." He also thought that "The late contest with Great Britain, glorious as it hath been for the country, hath been peculiarly unfortunate for the clergy." He blamed these evils on the theory that the people can do no wrong. Jefferson wrote to Moses Robinson on March 23, 1801: "The Eastern States will be the last to come over, (to the Jeffersonian party) on account of the dominion of the clergy, who had got a smell of union between Church and State, and began to indulge reveries which can never be realized in the present state of science."

Chelmsford, Newton, Weston, Cambridge, Leicester, Sutton, Petersham, Royalston, Harvard, Middleborough, Ashburnham, Templeton, South Brimfield, Ashfield, Wilbraham, Shutesbury, Westfield, Lanesborough, Cheshire, and Hancock. The increase in membership was, in some cases, phenomenal. The Wilbraham Baptist church, which had but thirty-nine members in 1773, had one hundred and sixty-one five years later. In 1792 it had two hundred and thirty-five. The Cheshire Baptist church, which was founded in 1769, had almost two hundred members in 1792. Since, in the minds of many of the members of the established church, joining the Baptists was but the first step in the direction of Shakerism, perfectionism, or universalism—all doctrines which, even to a Baptist, seemed abominable—one is not surprised to discover ministers of the Congregational church combating the evils which they thought attended the growth of the Baptists.[58]

The fact that the constitution did not definitely settle the religious tax issue was soon called to the attention of the courts. In 1781 the east parish of Attleborough assessed all who lived in the parish for the support of the Congregational church, whereupon Elijah Balkom, a Baptist who refused to pay his assessment, was imprisoned. He sued the assessor for damages, but the justice of the peace decided the case against him. On appeal the case was taken before the county court at Taunton, where Robert Treat Paine, the attorney general, argued the case for the commonwealth against James Varnum and William Bradford for Mr. Balkom. Paine tried to have the case settled out of court by arbitration, but the Baptists insisted on a judicial decision. For them this was an important test case. The court gave judgment for the appellant. This should have settled the matter, but custom and tradition were too well established to be changed by a single court decision.[59]

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[58] Backus, II, 272, 433–478, chs. xxxvii–xxxix; Thornton, Pulpit of the Revolution, 373ff.

Some parts of the new constitution were interpreted to militate against the traditional position of the Congregational clergy. In the pre-war period the church members chose the ministers, and their choice was ratified by the town or parish meeting. If the town or parish refused to ratify the choice of the church members, an ecclesiastical council made up of representatives of from three to five neighboring churches had the final authority in the matter. Even though the council might have acted against the will of the majority of the people in the town or parish, the court of general sessions could compel the people to pay for the support of the minister thus chosen.[60] In the words of James Sullivan, who was himself a Congregationalist,

> "This glaring piece of religious tyranny was founded upon one or the other of these suppositions: that the church members were more religious, had more understanding, or had a higher privilege than, or a pre-eminence over those who were not in full communion; or in other

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[59] American Society for Church History, Papers, VI, 163; Cobb, Rise of Religious Liberty in America, 514; Guild, Chaplain Smith and the Baptists, 311; Hovey, 247; Buck, Ecclesiastical Law, 40–41. Buck seems to infer that the decision had no more than a local effect. Hovey says, "This judgment not only settled the controversy at Attleboro, but was extensively beneficial elsewhere." Cobb says, "This should have settled the question for the State but it did not, and the old custom still generally obtained." See also Backus, II, 273–274 for a case in court in Hingham.

[60] Province Laws, I, 62–63, 102–103, 216–217, 505–506.

> words, that their growth in grace, or religious requirements, gave them the right of taking and disposing of the property of other people against their consent."[61]

In the new constitution the section of the Third Article of the Declaration of Rights, which provides for the election of ministers reads:

> "Provided, notwithstanding, that the several towns, parishes, precincts, and other bodies politic, or religious societies, shall, at all times, have the exclusive right of electing their public teachers, and of contracting with them for their support and maintenance."[62]

Apparently the intention was to have the ministers of the Gospel elected by a broader electorate. The interpretation of the courts for this section will be discussed later.

A theory arose, under the constitution, that ministers could be dismissed by the towns or parishes which had elected them. This naturally aroused the clergy of the Congregational church. One of them took it upon himself to stamp out this new and dangerous doctrine. By establishing the fact that the clergy had always been a privileged class in Massachusetts, he seems to have assumed that they would always be so, regardless of the stipulations of the constitution. He pictured the hard conditions under which the clergy had labored after the war, when low salaries compelled them to live in such manner as to cause them to lose their prestige.

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[61] Sullivan, Strictures on Reverend Mr. Thacher's Observations upon the Present State of the Clergy in New England; Amory, Sullivan, I ,7–8; Fitton, Sketches of the Establishment of the Church in New England, 76. Sullivan's paternal ancestry was Irish Catholic.

[62] Declaration of Rights, Article III, section 3.

From the Cambridge Platform of 1648 and the traditions and precedents of the established church, he tried to prove that ministers could not be dismissed by the parishes; that their contracts were permanent; and finally, that if the parishes could dismiss them they were "of all men most miserable."[63]

The reply to Thacher came from the pen of James Sullivan, who, while admitting that the "servile awe, which in royal government was felt both towards magistrates and ministers, may have been dissipated by the revolution," contended that the clergy ought to be dependent on the people who pay for their support. He took exception to Thacher's' statement that ministers suffered more than others during the period of readjustment after the war. He challenged him to name more than one minister who had been dismissed unjustly; one case he admitted, but Thacher made too much of a single exception. He did not deny that many were dismissed during the war because they were Tories. Apparently he saw no danger in the dismissal of ministers for political reasons.[64]

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[63] Thacher, Observations upon the Present State of the Clergy in New England. Thacher was a minister in the Congregational church in Malden.

[64] Sullivan, Strictures on Reverend Mr. Thacher's Observations upon the Present State of the Clergy in New England. Sullivan argued, "That ministers are created such by the people, Mr. Thacher will never deny, because he has too much good sense, and too much regard for his own character, to assert that ministers have . . . a commission from Heaven to evangelize at large . . . and if they are popular servants, they undoubtedly ought to realize a proper dependence on the people, as much as the civil officers in democratical government do." He also contended that ministers settled after the war got better terms from the towns and parishes than those settled before. This might have been true, but with cheap money incomes the real and the apparent incomes would have to be compared.

These arguments brought out the two viewpoints in clear contrast. Sullivan took the democratic position that ministers, like other public officers, were responsible to the people. Thacher, on the other hand, thought that since ministers must be educated for their work and since they are installed with great ceremony, they should have a more permanent tenure. On one point they agreed—coercion in religion should be reduced to a minimum. Thacher's suggestion that differences between towns or parishes and their ministers might be adjusted by a synod was met by Sullivan's statement that under the constitution synods had absolutely no power to deal with such problems.[65]

In the period of readjustment after the war the Universalists appear in the fight for individual freedom in religious affairs. The founder of that denomination in England was James Relly, who had been a disciple of Whitefield. The leader of the sect in America was John Murray, who had been an active opponent of the heresy in Engand, until he was sent to reclaim a woman who had fallen into it. She converted him to the idea of universal salvation. Misfortune followed him after his conversion, but through the efforts of a brother-in-law he was released from prison for debt and allowed to come to America. Here he soon began to preach to such as were willing to listen to him in Portsmouth, New Hampshire, and in Boston. He settled in Gloucester, Massachusetts, just about the time when the Revolution came. In May, 1775, he became a brigade chaplain in the army in Boston. In spite of the opposition of the orthodox clergy, Washington and Greene supported him in his position.[66]

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[65] Thacher and Sullivan as cited above; Thacher, Reply to Sullivan. See also, Washburn *vs.* Springfield, 1 Mass., 32ff. and Bangs *vs.* Snow, 1 Mass., 180ff. for cases in which Sullivan appeared for the dissenters against the establishment.

In 1780 Murray was chosen to be the religious teacher of the independent church that was formed in Gloucester. In its statement of fundamentals that church denied the right of human authority to regulate conscience by laws. When members of the church refused to pay for the support of the Congregational church in the town, distraint was made upon them and the matter was brought to the courts. James Sullivan argued the case for the Universalists against Theophilus Parsons, who later became famous as chief justice of the commonwealth, for the town. While the case was pending—it took three years to obtain a decision—the Universalists gained support from an unexpected quarter, when the Reverend Charles Chauncey, who had won his spurs against the revivalists about forty years before, and who in the meantime had led in the fight against an American bishop, supported some of the doctrines of Relly.[67]

The arguments were focussed on the Third Article of the Declaration of Rights, on whether a person who denied eternal punishment could properly be called a public teacher of "piety, religion and morality."[68] Sullivan maintained that "if motives of rewards and punishments in another world" were made the basis of a court decision, it would launch the court into interminable inquiries. He argued that a court might decide that a strict Calvinist who believed in predestination could not teach morality to those whom he considered as of the non-elect. The jury was instructed to bring a verdict against the Universalists, but in spite of the instructions the decision was for them. After the case was reviewed even the judges seem to have become convinced of the justice and legality of the decision. On that occasion the jury deliberated all night, but it finally agreed to confirm the former decision. The effect of the decision was felt throughout the commonwealth.[69]

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[66] Demarest, Life of John Murray, 144–145, 173–182, 194–196, 220, 288–289, 295–300, 305, 313–319; Amory, Sullivan, I, 181–182; Babson, History of Gloucester, 430–434; Allen and Eddy, History of Unitarians and Universalists, 388–391; Greene, Life of Greene, I, 131–132. Murray was a friend of General Greene who had been expelled by the Quakers for taking up arms in the Revolution.

[67] Demarest, 324–331; Allen and Eddy, 399–401; Amory, Sullivan, I, 182; Hovey, 301; Backus, II, 248–249, 326–327; Diary of William Bentley, I, 53–54; Walker, History of the Congregational Church, 295–297; Appeal to the Public by the Society of Christian Independents Congregating in Gloucester; Chauncey, Salvation for All Men.

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[68] The First Parish of Gloucester replied to the appeal of the Universalists. The reply reads, in part, as follows: "If this is allowed in Gloucester we cannot hope to have it stop there. It will spread to the discouragement of all science and erudition, the destruction of peace and order, which will soon precipitate these infant free States into anarchy and confusion. We speak feelingly, from experience. This town, once the seat of peace and commerce, is now nodding on the brink of ruin, owing chiefly, if not entirely to this Association, headed by this foreigner, who, through a too great indulgence, has acquired the effrontery to claim equal privileges with the learned, regular and ordained ministers of the commonwealth: assuming their title he sues for support. If this Association should be supported by law, then any one, two or three families may form themselves into the same, and claim the same privileges. What then will become of our colleges, incorporated parishes and churches?" The historian may not agree that the commercial prosperity of Gloucester declined because of religion!

[69] Demarest, 332–336; Amory, Sullivan, I, 183–185; Hovey, 301; Babson, 435; Cobb, 514. Babson reports that when the case was given over to the jury at the final trial the foreman told the others that he would vote to confirm the former decision. He then went to sleep telling the other jurymen they could call him when they agreed. In the afternoon before, when the jury had disagreed, the judge sent them back and told them not to come out until they had reached an agreement.

Before the case of the independents of Gloucester was settled, Murray was brought into court for another offense. He had performed the marriage ceremony for several of his parishoners — action which was pronounced illegal because he had not been properly ordained. A fine of fifty pounds was placed upon him in a test case. In order to avoid further litigation his friends sent him to England while they obtained an act of indemnity for him. To avoid future complications he was re-ordained when he returned to America.[70]

A complete survey of the causes and results of Shays's Rebellion does not fall within the scope of this study, but the dictum that "religion and hunger" are the only forces strong enough to drive men to revolution seems to be borne out in this case.[71] In June, 1787, Barnabas Bidwell, who had graduated from Yale two years before, wrote a letter in which he summarized the political situation in the affected region, as follows:

> "The Gentlemen of learning & liberal professions, especially the Clergy, are universally for Government. Debtors are generally on the other side; and this class comprehends more than half of the people. Persons guilty of crimes, or who wish to commit crimes; Rhode Island Emigrants and almost all of the denomination of Baptists; men of warm passions & little reason; men of fickle minds, fond of every new scheme and proud of an enterprising

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[70] Demarest, 340–350; Babson, 435–436; Diary of William Bentley, I, 85, 87. Judges Sullivan and Dawes coöperated with the friends of Murray in getting the act of indemnity passed.

[71] Lady Cecil, Life of Lord Salisbury, I, 107; Mass. Hist. Soc. Proceedings, L, 54–56.

> spirit,—such have pretty generally engaged in the Insurrection."[72]

Mrs. Mercy Warren thought the revolt was "artificially wrought up, by men who wished a more strong and splendid government."[73] Another writer thought the insurrection was made into "a great engine of terror to dispose people of that country to receive chains." He blamed excessive taxes for the trouble.[74]

There seems to be sufficient evidence to warrant the conclusion that the clergy were practically all on the side of peace and order. Several ministers became unpopular for their stand.[75] The statement that the Baptists were generally involved in the insurrection may be true, but there seems to be no other evidence to confirm it. Several of the towns in which Shays's supporters seemed to be numerous had no Baptist churches.[76]

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[72] American Antiquarian Society Proceedings, new series, IV, 368–369.

[73] Harding, The Federal Constitution in Massachusetts, 13. He quotes Warren, History of the American Revolution, III, 346. See also Independent Chronicle, Oct. 4, 1787; Holland, I, 299; Manning, Key to Libberty, 52–54; Mass. Hist. Society Collections, LXXIII, (ii), 314.

[74] Konkle, Life and Times of Thomas Smith, 198. The quotation was said to have been that of Judge Bryan in Pennsylvania. See also Cushing, History of the Transition from Provincial to Commonwealth Government in Massachusetts, 273, note 1; Clune, Joseph Hawley's Criticism of the Constitution of Massachusetts, 26 note. Joseph Hawley objected to the qualifications for suffrage and suggested that the taxes on the poorer class would be raised under the constitution. It is pointed out that he was a good prophet. The proportion of the commonwealth tax raised by the poll tax increased from 30% to 40% from 1778 to 1786. Here, no doubt, is one reason for the rebellion.

[75] Headley, Chaplains and Clergy of the Revolution, 154; Barry, III, 227; Smith, History of Pittsfield, I, 399, 417–418; Thompson, History of Greenfield, I, 271; Holland, I, 240–241.

[76] Backus, II, 470; Green, Groton During the Revolution, 181–185; Thompson, I, 276; Willard, History of Greenfield, 84–85. Green finds

An important phase of the relation between the clergy of the Congregational church and the towns or parishes was the political differences that had arisen during the war. Some of the ministers were Tories; others were not as enthusiastically for the war as were their people. This led to an alienation from which the Congregational church suffered after the war. In Charlemont the Reverend Jonathan Leavitt was suspected of both Tory inclinations and Arminian views. In 1777 when he refused to accept his salary in paper money, the town closed the meeting house. He continued to preach for his friends in the school house. Later he sued for his salary, and, although the court of common pleas non-suited the case, the supreme court gave him a decree for five hundred pounds. Some of the inhabitants saw their property taken away to pay the salary of a minister who, in their minds, was both a traitor and a heretic.[77] The Reverend Jonathan Ashley, minister in Deerfield, was undoubtedly a Tory. After he preached the doom of the men who had fallen at Lexington his pulpit was "spiked"; but when he died in 1780 his executor collected almost eight hundred pounds from the town.[78] The minister of Greenfield was not a patriot.[79] The Rev-

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that there were at least seventy men from Groton in the insurrection. It was not a Baptist center and there probably was not a single Baptist church in the town. Greenfield seems to have had no Baptist church yet two of the first four men killed on the side of Shays were from that town. Backus gives evidence that the Baptist minister of New Salem condemned both sides in the rebellion.

[77] Smith, History of Pittsfield, I, 395; Clark, Congregational Churches in Mass., 216; Packard, History of the Franklin Association, 66–68; Holland, I, 224–225; II, 66, 167, 356, 401, 434, 447–448; Morse, Federalist Party in Mass., 181–184 and Appendix J.

[78] Sheldon, History of Deerfield, II, 735; Packard, 129–131; Willard, History of Greenfield, 61 note; Sabine, Loyalists in America, 136.

[79] Thompson, 255–257; Willard, 60–61.

erend Abraham Hill of Shutesbury was a Tory. Daniel Shays was a leader in opposing him. During the war he was imprisoned, but later he compelled the town to pay him his salary. The action of the courts created so strong a prejudice against the Congregational church that no regular minister of that denomination was hired in the town until 1816.[80] The minister of Warwick was carried to Northampton by a mob that was convinced of his Toryism. He died from the effects of the trip.[81] Loyalism in the pulpit and general poverty in the towns in western Massachusetts no doubt caused a break in the tradition that every town must have its own minister.[82]

From this evidence one would conclude that the Congregational church was not especially popular in western Massachusetts even before Shays's Rebellion. The Rebellion was caused by economic pressure, which made the region still more unfavorable for an expensive system of religious instruction. The dissenters offered a less expensive system. Moreover, the towns resented the interference of the higher courts in behalf of the Tory ministers. The people, during the war, had become accustomed to local government and the minimum of interference on the part of the state courts. The action of the courts was undoubtedly intended to be just and equitable. The ministers had contracts that were legal and the courts enforced them. On the other hand, there was at least one minister in a Congregational church who preferred to suffer with his people in a period of stress rather than to appeal to the courts for his salary. Coercion was against the spirit of the time, and the too frequent use of it made those who appealed to it unpopular.[83]

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[80] Packard, 356–361; Backus, II, 470; Sullivan, Strictures on Reverend Mr. Thacher's Observations on the Present State of the Clergy in New England; Gay, Gazetteer of Hampshire County, I, 170–171; Holland, I, 226. In 1780 a Baptist church was organized in Shutesbury. The Baptist minister represented the town in the convention of 1779–1780 and was an opponent of the establishment.

[81] Packard, 398–399.

[82] Packard, 33–34, 52–53, 84, 371–372; Sullivan, Strictures, etc.; Morse, Federalist Party in Mass., 183–184; Taylor, Great Barrington, ch. xxii. Bernardstown had no minister from 1745 to 1761 when the Reverend Job Wright was installed. He was dismissed March 13, 1782, on account of financial difficulties in the parish. Buckland had no meeting house for fourteen years after its incorporation in 1779. Coleraine had no minister from 1773–1777. Sunderland had no settled minister from 1784 to 1792. In Hampshire and Berkshire counties thirty-nine towns had no ministers during the Revolution; six had ministers for a part of the period and thirty-three had regular ministers.

During the Critical Period the political issues played into the hands of the opponents of the established church no less effectively than the economic issues. During the war the towns had learned to manage their own affairs without the interference of the commonwealth authorities. After the war they preferred to maintain their freedom. The clergy of the established church, in calling upon the commonwealth courts to enforce their contracts, placed themselves on the side of centralization as against local control. This was unfortunate for the Congregational church. The law of 1786 was evidence of the reaction toward centralization. That reaction made the dissenters popular.

After Shays's Rebellion the next struggle between the protagonists of the centralization idea and those who were in favor of more local control came in the convention called to ratify the proposed federal Constitution. The proposed plan was opposed on three grounds from the religious angle. It contained no religious test for office, no bill of rights, and no guarantee for freedom of conscience.

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[83] Smith, History of Pittsfield, I, 417–420, 461–462; Backus, II, 353; Morse, Federalist Party in Massachusetts, 124 and note 31; Debates of the Convention of 1820, 586. The parish of Pittsfield voted to give their minister, the patriotic Thomas Allen, three hundred pounds in order to enable him to pay his debts. When he heard that some parishoners opposed the levy he refused to accept their money.

On the opening day of the convention Samuel Adams played a rôle similar to that which he had played in the Continental Congress. He suggested that the convention attend morning prayers with the ministers of the several denominations officiating in their turns.[84] When a delegate from Sutton raised the question of a religious test for office he was answered by Theophilus Parsons, who thought such tests eliminate only the sincere and conscientious. He argued that "a good life" is the best evidence of religion and that electors were the best judges of the lives of candidates for office.[85] The argument of Parsons settled the issue only temporarily. When it came up again a minister of the Congregational church stated that he thought there were good men among the Baptists, Quakers, Episcopalians, Papists, and even among those who found their evidence of a Supreme Being in nature.[86] Colonel Jones of Bristol, Maine, still thought he could not vote for a constitution that did not require a belief in God as a qualification for office.[87] He was answered by another Congregational minister who took the position that "attempts to erect human tribunals for the consciences of men, were (are) impious encroachments upon the prerogatives of God." As one recalls his election sermon of 1778, it appears that he had changed his mind in the matter. In one case he argued for an establishment, whereas in the other he seems to oppose it.[88] Backus as usual was in favor of complete religious liberty. He and the Reverend Samuel Stillman voted for ratification, but the majority of the Baptist ministers and delegates were in the opposition. This was probably due to the fear that oppression would increase with the strength of the commonwealth government. It was also true that the Baptists did not belong to the well-to-do class and therefore were not so vitally concerned in a strong government to protect property rights. James Manning, the president of the Baptist College in Rhode Island, attended the Massachusetts convention and made an effort to convert some of his Baptist brethren to vote for the constitution. Hancock invited him to dismiss the convention in the closing prayer.[89]

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[84] Harding, The Federal Constitution in Mass., 36; Debates of the Convention, 24, 70, 119, 122, 149–151, 182; Wells, Samuel Adams, III, 254.

[85] Debates of the Convention, 70, 119; Parsons, 96–97; Diary of William Bentley, I, 88.

[86] Debates of the Convention, 150; Lincoln, History of Hingham, 37. See also Debates, 175. The Reverend Mr. Thacher of the Congregational church in Dedham said in the convention, "I am sensible of the prejudices that subsist against the profession to which I belong." This is a significant statement in view of the fact that the clergy in Massachusetts had long been influential in political matters.

The Revolution emphasized political differences and minimized religious differences. Patriotic Baptists and Congregationalists had more in common during the war than a patriotic Congregationalist and one of his Tory brethren. The Baptists took advantage of this new alignment by demanding freedom of conscience. During the war the religious taxes, like other taxes, were not collected as regularly as in time of peace. As a consequence, the ministers of the established church suffered a sharp decline in their incomes. Since they preached the Lockean theory of liberty in political affairs it was difficult for them to preach coercion in religion. Many of the people applied the Lockean theory to religion. The war also converted many people to the theory that "the best governed are the least governed," a theory which played into the hands of the dissenters. When the time came to make a new constitution it was an extremely difficult task. The liberties of the individual had been emphasized so much more than the obligations, that any practical constitution was likely to meet with strenuous opposition. To complicate matters even more, the new constitution could not gain the support of the Congregationalists unless it provided for some form of establishment. The first attempt at constitution making failed, but it taught the General Court the necessity of a convention to draft the frame of government. The convention was called, after the towns had voted favorably on the issue, and proceeded to prepare the constitution for submission to the people of the several towns for their suggestions. The religious clauses caused more discussion than any other in the whole frame of government. The problem of the delegates was to provide for religious instruction without interfering with the rights of conscience. The final result was a compromise which included contradictory statements. No sooner was the new government launched than Baptists and Universalists were brought into the courts on the religious tax issue. The problem before the courts was extremely complicated because of the contradictory theories in the constitution, but they made matters even worse when they tried to decide cases in the light of precedents. The decisions of the courts were satisfactory to neither party. Shays's Rebellion and the general economic depression made it difficult to maintain an established church in each town. Taxes of all kinds were obnoxious to the people, who were without a satisfactory medium of exchange. When the commonwealth courts compelled the people to pay the salaries of ministers who had been dismissed because of Toryism, it made the established church still more objectionable. It was the only church that compelled people to pay religious taxes, as well as the only church whose Tory ministers were supported by the courts. Moreover, the use of the commonwealth courts to coerce towns savored too much of centralization to please the people. In short, the courts made the theories of the Baptists and the Universalists popular. These denominations grew at the expense of the Congregational church. In the convention called to ratify the proposed federal Constitution, the Baptists were not generally in favor of ratification. This was probably due to their economic status as well as to their religious convictions. The Congregational ministers in the convention were in favor of ratification. They even defended the omissions in it which some religious people thought were dangerous.

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[87] Debates of the Convention, 151.

[88] Debates of the Convention, 151; Thornton, Pulpit of the Revolution, 339–340; Backus, Church History of New England, 204–205; Hovey, 233. This was the Reverend Phillips Payson of Chelsea.

[89] Debates of the Convention of 1788, 182, 213; Guild, Manning and Brown University, 404–406; Diary of William Bentley, I, 88; American Society for Church History, Papers, VI, 164.

CHAPTER V

RELIGION, LAW, AND POLITICS FROM 1789 TO 1815

The Critical Period was a time of readjustment in religion as well as in politics. Prolonged war always has a tendency to lower moral and religious standards, and the Revolution was not an exception. After the demoralizing effects of the French war and the Revolution, Timothy Dwight wrote, "Whatever was not punishable by law, multitudes considered as rectitude." But while all the states found it necessary to make readjustments, those in which the church and the state were closely allied had the more difficult problem. The growing popularity of the Lockean theories of liberty and toleration was a challenge for the defenders of the establishment in Massachusetts.[1] The clergy thought there was a particular need for a strong establishment to combat the evils of the time. They had done valiant service in support of the government during the war and at the time of Shays's Rebellion, in return for which they felt entitled to the support and protection of the civil government. They had also used their influence in favor of the state and federal constitutions.

The clergy in New England had always been deeply concerned in politics. Tradition favored the priest and the prophet in a political rôle; that rôle the clergy were trying to maintain.[2] But there was a more important reason why they should have been interested in politics after the adoption of the constitution of 1780. That constitution, by taking the right of electing the ministers away from the church members, as such, and giving it to the voters in the towns and parishes, subjected the ministers to the will of the people, at least for their election. Whether the towns and parishes had the power to dismiss them was still to be settled by the courts. The laws of 1786 and 1794 further emphasized the dependence of the ministers upon the voters.[3]

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[1] Dwight's Travels, IV, 346ff.; Morse, Federalist Party in Mass., 102ff.; Clark, Congregational Churches in Mass., 217; Stevens, Memorials of Methodism, second series, 18–19; Sprague, Annals of the American Pulpit, I, 357–358; Thacher, Observations on the Present State of the Clergy in New England; Contributions to the Ecclesiastical History of Essex County, 251–252; Walker, History of Congregational Churches, 295; Adams, New England in the Republic, 59.

The constitution seemed to include contradictory provisions, which were not clarified by the law of 1786. When the proponents of the establishment invoked colonial statutes and precedents, the problem of the courts was still more complicated. One phase of the problem is well illustrated in a case which arose in the town of Pittsfield. In 1789 the town decided to build a new meeting house, and during the following year two assessments were made to provide for funds. There were Baptists, Shakers, Episcopalians, and probably a few Methodists living in the town. Their chief interest in the building program was to avoid the taxes for it. The Baptists and Episcopalians proposed to resort to court proceedings rather than pay any tax that might be levied on them. The town meeting seems to have done everything within its power to avoid litigation. It named a committee to ascertain the names of all those who belonged to other churches. In order to facilitate the work of the committee as well as to be fair with the members of the established church, it was decided to make the lists of church members as of 1789, the date when the town meeting voted to build a new meeting house. The committee brought a report which classed six taxpayers as Episcopalians, nine as Shakers, and twenty-one as Baptists. In the town meeting one name was removed from the committee's list of Episcopalians. When others demanded exemption, the lists were reopened. In the applications for exemption, following the reopening of the lists, some of the reasons given were significant. One man thought the Baptists "most right"; another made his plea on the basis of conveniency; a third thought it wrong to support a minister by taxation; a fourth suggested that he could enlighten the minister; finally, one gave as his reason the fact that he could not pay his debts. The committee then introduced its plan for making the assessments—a plan which strikes one as just and reasonable under the circumstances. All taxpayers were to be taxed as though they belonged to the same church, but only the money paid by those who did not belong to any other church was to be used in paying for the new meeting house. The money paid by those who belonged to any of the other denominations was to be paid over to their respective ministers. This plan took away the economic advantage of those who were not Congregationalists, as well as of those who wanted to transfer their church membership after the plans were made to build a new meeting house.[4]

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[2] Dwight's Travels, IV, 361, 362; Adams, History of the United States, I, 79, 81, 95; Robinson, Jeffersonian Democracy in New England, 10, 128ff.; Morse, Federalist Party in Mass., ch. vii; Love, Fast and Thanksgiving Days in New England, 363ff.; Smith, History of Pittsfield, II, ch. vi. Adams says the clergy were still respected but they had ceased to be leaders.

[3] Bradford, History of Mass., III, 72ff.; Backus, II, 328; Smith, History of Pittsfield, I, 450–452; 3 Mass., 159ff.; Appendix A below, for the Third Article. The Cambridge Platform, "statutes of (the) former province of Massachusetts Bay," and traditional methods of settling ministers were referred to in an argument before the court.

The dissenters, in refusing to accept this compromise, were supported by prominent political and religious leaders, among them Bishop Seabury of Connecticut, Doctor Parker, who later became the bishop of the diocese of New England, the Reverend Samuel Stillman of the First Baptist church in Boston, and William Eustis, who later became a governor of the commonwealth. The matter went to the courts. In the court of first instance the town meeting won, but the supreme court decided the case in favor of the dissenters. The expenses of the litigation were divided, each side paying its own. After that the town generally accepted the certificate of a dissenter as evidence that he had paid his share of the tax for the support of worship. If any of the dissenting denominations gave certificates without collecting the tax, the holder of the certificate went free. This opened the way for tax dodgers.[5]

This case illustrates some of the difficulties of a town under the new arrangement. The town was compelled, as a corporation, to maintain religious teaching, but the individual taxpayers had found a method of avoiding the tax for its support. The inhabitants of Pittsfield seem to have attempted to avoid the useless expenditure of money in the courts, but the laws and the constitution were not clear on the subject. The money spent in litigation was sorely needed for other purposes in the town.[6] Referring to litigation such as the Pittsfield case, the Baptist historian sarcastically said the lawyers profited more than the preachers from the establishment.[7]

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[4] Smith, History of Pittsfield, I, 455–462.

[5] Ibid., 462–463; Berkshire Historical Society, Papers, I, 201–202; Debates of the Convention of 1820, 559, 583. It appears from the debates that certificates were used by tax dodgers.

After 1789 state and national politics in the United States developed along party lines—a development not well understood by the clergy and the politicians.[8] Before the separation from the mother country there had been two groups in politics: one group favored the policies of the mother country; the other stood for the rights of the people in the provinces. With such an alignment, there were few changes and no upheavals in provincial politics. The clergy, by taking their stand with the people as against the representatives of the Crown, were practically always on the popular side. This stability in politics ended with the Revolution. After that the clergy of the Congregational church were generally found on the side of the conservative, property holding class. They were Federalists. With the rise of the Jeffersonian party they were brought into the maelstrom of party politics; in 1800 their party was defeated in the national election. The dissenters in Massachusetts were generally found on the side of Jefferson.[9]

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[6] Smith, History of Pittsfield, I, 419–421. The Reverend Thomas Allen of Pittsfield was in financial distress after the Revolution. His patriotism was never challenged.

[7] Clune, Hawley's Criticism of the Constitution of Massachusetts, 41–42; Backus, II, 328–329; Manning, Key to Libberty, 33.

[8] Washington in his Farewell Address seems to have expressed a wish that there should not be two parties in the country. The Jeffersonians were called a faction by the Federalists.

[9] Robinson, 10, 128ff., 138; Smith, History of Pittsfield, II, ch. vi; Diary of William Bentley, II, 409.

In the election sermon in 1789 the Reverend Josiah Bridge clearly set forth the political tenets of the majority of the Congregational ministers. He dwelt upon the doctrine of submission to authority and emphasized the importance of leaving the government to "an assembly of the wisest and best men in the community." From Holy Writ he found arguments to prove that those who had "risked their dear-earned interest" had a right to expect the government to pay "sacred regard to their engagements."[10] Judging from this sermon, which was preached before the French Revolution had brought its powerful influence to bear upon American politics, it seems apparent that Bridge did not need a "Reign of Terror" to drive him to the side of the vested interests. Those few of the Congregational clergy who became Jeffersonians seem to have withstood even the "Reign of Terror."[11]

In 1791 a new Sunday observance law was enacted. It provided for fines for those who absented themselves from worship, but it was never enforced. At that time Boston was the scene of a heated discussion on the question of permitting theaters. The pro-theater party finally won in spite of the fact that several prominent political leaders opposed it. The day of compulsion in religion and moral issues was slowly passing, especially in the city of Boston. In the other towns the religious taxes were the source of more trouble than other taxes.[12]

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[10] Election Sermon, 1789.

[11] Robinson, 132; Morison, H. G. Otis, I, 84 note; Hobart, History of Abington, 105–106; Diary of William Bentley, I, xx and II, 129, 130. Bentley of Salem, Allen of Pittsfield, and Bradford of Rowley were three outstanding Jeffersonians among the Congregational clergy. Bentley thought the French clergy made the mistake of taking a definite stand in the political issues during the French Revolution. He seemed to sense the danger of the Massachusetts clergy when they became involved in party politics. See also Adams, New England in the Republic, 219.

The decade after 1790 saw the development of Methodism as a new influence in Massachusetts. The followers of Whitefield and Wesley could count twenty-nine churches in the commonwealth in 1800. The causes for the growth of Methodism were: the strong character of the itinerant preachers; the intense fervor which appealed to many who were turning away from the colder intellectualism of the Congregational divines; the democratic spirit of Methodism; and the religious unrest of the time.[13]

The transfer of church membership from a Congregational church to one of the other denominations could not always be done without arousing prejudice even at that time. The tax issue was a constant source of friction.[14] Both Baptists and Methodists were subjected to imprisonment on account of it.[15]

The relation between civil and religious affairs for the Federalist period is illustrated in the public sermons on special occasions. In 1794 Samuel Adams, who was not in sympathy with the Hamiltonian policies of the Washington administration, made no mention of the federal government in the Thanksgiving proclamation which he, as governor, issued. This was a challenge for the Federalist divines. One of them, the Reverend David Osgood of Medford, assuming the rôle of an Elijah, directed the attention of his audience to the governor's error. He denounced "Democratic Societies" and eulogized the Hamiltonian regime. Nor was his sermon unusual for its political implications. The Reverend Jedediah Morse made the observation that the "Thanksgiving sermons in Boston and vicinity" all breathed the same spirit. He hoped Washington's attention would be directed to the Federalism of the New England Clergy.[16] James Sullivan, a layman in the Congregational church and a Jeffersonian, replied to Osgood in a caustic pamphlet entitled "The Altar of Baal Thrown Down." He advised the minister "never again to step out of his line to gratify a party."[17]

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[12] Bradford, History of Massachusetts, III, 30, 31, 38, 83; Clark, Congregational Churches in Mass., 228–229; Bigelow, Narrative History of Cohasset, 365.

[13] Stevens, Memorials of Methodism, 13, 44, 46, 68; Clark, 227–228; Stearns, History of Ashburnham, 310ff.

[14] Stearns, 259. See also Smith, History of Pittsfield, I, 455–462.

[15] Backus, II, 379, 550–551; Stevens, Memorials of Methodism, second series, 201ff. In 1794 a Baptist was imprisoned in Medfield for religious taxes. In 1795 six Baptists were arrested in Harwich on a similar charge.

The Thanksgiving sermons of 1795 developed another phase of the danger in political sermons. The majority of the Congregational ministers, having learned nothing from Osgood's experience, denounced Jeffersonianism and lauded Federalism. However, there was one notable exception,—one discordant note. The Reverend Ebenezer Bradford of Rowley commended the very party that his colleagues denounced. For this action he was boycotted by his colleagues and nicknamed the "Vandal of Rowley."[18] Such intolerance showed the weakness rather than the strength of the clergy. At a time when political feeling was dividing the laity on such issues as Jay's Treaty and French relations, schism in the clergy augured ill for the religious leaders who meddled in politics.[19]

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[16] Love, Fast and Thanksgiving Days in New England, 364–367; Morse, Federalist Party in Massachusetts, 126–131, 156, 170; Thanksgiving Sermon of David Osgood, 1794. Osgood's sermon was bolder and more direct that those of his fellow ministers.

[17] Amory, Sullivan, I, 297ff., 389–390; Morse, 129; Love, 368; Sullivan, "The Altar of Baal Thrown Down." Sullivan defended the right of the people to assemble and confer on political issues. He said, "No one but a mad man or a fool will proclaim officially, that the Governments, or either of them (state and federal), are in danger, from a disaffection in the people. . . ." The clergy wanted only the "wisest and best men in the community" to discuss politics. See also Manning, Key of Libberty, 28ff. Manning thought arbitrary governments had always prostituted religion and suggested that ministers "aught to be watched & garded against above all other ordirs, espatially when they preach politicks."

The Jeffersonians in Massachusetts, following the lead of Sullivan, maintained that the clergy should steer clear of political issues.[20] But the majority of the men of the cloth followed in the footsteps of their predecessors and disregarded the advice. In their behalf it must be said that under the new constitution they were regarded as officers of the towns and parishes, a position which made it difficult for them to abstain from political controversy. In a sense it might be said they had the traditional responsibility but not the traditional authority under the new arrangement.[21]

The displeasure of the Congregational ministry toward the attitude of the Jeffersonians was expressed in the convention sermon in 1796. The preacher called attention to the "monopolizing spirit" among politicians, who opposed the intrusion of the clergy into political affairs and threatened them "with a loss of their livings" if they continued to move "in the political sphere." He recalled the time when the same persons had urged the clergy to blow the trumpet in the defense of the country during the war.[22] Apparently he thought the politicians inconsistent, but his argument is not convincing. Just because the clergy took advice from politicians in 1776 is no reason why they should not do so in 1796. A clergy that moves in the political realm must be prepared to meet the vicissitudes of success and failure as these come in politics.[23]

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[18] Morse, 130–133 and note 54; Robinson, 132; Diary of William Bentley, II, 129, 156; Love, 370–373. Bentley wrote, "The Clergy are now the Tools of the Federalists, & Thanksgiving Sermons are the order of the Day."

[19] Diary of William Bentley, II, 130, 266. Bentley commented as follows on Jay's Treaty: "The public frenzy obliged me to sign on behalf of the British Treaty & the busy temper of the Clergy has entailed this evil upon the order. . . . Arts are used to engage the Clergy in the English Interest. The french friends are said to dispose their talents as usual below mediocrity. But the Clergy will not be supported in Republics by public favour only for State purposes & if a few insinuations are to decide them; they will have them plentifully from the party they abandon." See also Manning, 44ff.

[20] Robinson, 134–135 and note 22; Manning, 28ff.

[21] Sullivan, Reply to Thacher, 3–5.

In the same sermon the preacher bewailed the fact that the clergy were not properly supported. The support was "either insufficient" or so long delayed that many were "reduced to straits and sufferings." If they appealed to the courts for their salaries a spirit of resentment arose, which not infrequently led to threats of dismissal. The forcible collection of the religious taxes had become so odious that ministers who resorted to such measures were blamed for mercenary motives.[24] But if they quietly accepted the meager allowances which came to them, they could no longer maintain themselves in the position of influence to which they were accustomed.[25]

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[22] Convention Sermon, 1796, 15, 16, 19. The sermon was preached by the Reverend Jeremy Belknap.

[23] Political crises have always affected the clergy. The latest evidence came in the period after the World War when not a few ministers who tried to preach a Kaiser into another realm found their influence gone after the war was over.

[24] Convention Sermon, 1796, 19, 20; same for 1797, 23; Adams, New England in the Republic, 220; Manning, 29. Manning asserted that "It is this conduct in Ministers that is the prinsaple reason for the neglect of publick worship & Religious Institutions that is so much complained of by the Ministers now."

A law passed in 1800 repealed all the laws which had been passed since 1780 for the support of worship and the settling of ministers. Under the new law religious societies or parishes were to be subjected to a fine if they did not provide for qualified religious teachers for at least three months out of every six. Contracts with religious teachers were to be binding on all parties concerned. Quakers alone were exempt from the religious taxes. Those who did not worship with the majority in the parish could have their religious taxes transferred to their own religious society, provided they obtained certificates to prove that they worshipped with another denomination. The certificates were to be signed by the minister and two members of the church attended. Assessors were given the privilege to omit from the religious tax list those who belonged to and usually attended worship with a dissenting denomination. The town or parish was left to select its minister and provide for his support. The dissenters had the same privilege. Bradford implies that the law was a compromise between the group that wanted to give the church members the right to settle the minister and then compel the town to support him, and those who wanted complete exemption. He suggests that the intent of the law was to give the town or parish, as opposed to the church, the right to hire the minister. That seemed to be implied in the constitution, but as late as 1820 there were still those who argued for the "ancient usages."[26]

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[25] Adams, New England in the Republic, 220; Morse, Federalist Party in Mass., 123; 3 Mass., 159ff.

The act of 1800 reflected the change in the political alignment. The seeming arrogance of the ministers of the Congregational church had alienated many people, especially those who demanded more individual freedom in religious affairs. The Jeffersonians, by championing the cause of religious freedom, won the disaffected group. At first the Jeffersonians tried to keep religion out of politics, but when they found the religious issues playing into their hands they used the weapons which the Federalists had forged for them. By 1800 both political parties were involved in the religious struggle in Massachusetts.[27]

The effect of the attacks of the Jeffersonians did not escape the attention of the clergy. In the convention sermon in 1797 the Reverend David Tappan enumerated the charges that had been brought against his order. They were blamed for persecuting zeal, mercenary motives, proud and insolent temper, and the natural enmity to the doctrine of equal liberty.[28] Tappan made an effort to vindicate them, but Jeffersonianism grew apace.

The two political parties were approximately equal in strength in 1800. The Federalists had the advantage of being in office. They could muster bench, bar, and pulpit. The Jeffersonians, on the other hand, had the advantage of being the party that had grown from a small minority in Massachusetts to a party that threatened the dominant position of the Federalists. In 1802 Fisher Ames wrote:

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[26] Buck, Ecclesiastical Law, Appendix B gives the law. It was enacted March 4, 1800; Bradford, III, 73; Clark, Appendix III. See also Appendix A below, for the part of the Constitution of 1780 to which reference is made.

[27] Robinson, 133-136, 148-149; Diary of William Bentley, II, 272; Amory, Sullivan, I, 344.

[28] Convention Sermon 1797; Manning, 29. Manning blamed the ministers for "running down & blackgarding Republican prinsaples & the French Nation."

> "The federalists must entrench themselves in the State governments, and endeavor to make State justice and State power the shelter of the wise, and good, and rich, from the destroying rage of the Southern Jacobins."[29]

In the convention sermons of 1798 and 1799 the preachers took a definite stand against the Republicans. They blamed the growth of Republicanism on the atheism of the French Revolution, which they thought was being disseminated by the "American Republicans."[30]

The close rivalry between the Republicans and the Federalists in the elections from 1800 to 1807 paralleled the contest for more freedom in religious affairs. In 1802 the Baptists bought practically all of the pews in the established church in Bellingham.[31] At the same time the Methodists were attempting to win equal rights with the members of the Congregational church in Provincetown.[32] Needham voted to refund one hundred and eighty dollars "to persons who had (have) been wrongly taxed."[33] In Amesbury both Baptists and Episcopalians protested against the religious taxes.[34] Salisbury voted to give the Methodists half-time use of the meeting house. In the first decade of the nineteenth century they obtained control of the church in that town.[35]

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[29] Works of Fisher Ames, I, 310. See also Adams, History of the United States, I, 76, 95; Austin, Life of Gerry, II, 296–297, 302; Parsons, Parsons, 201; Barry, III, 379.

[30] Morse, 169–173; Morison, H. G. Otis, I, 84, 153.

[31] Partridge, History of Bellingham, 115, 116. The others had the right to buy the pews but the Baptists bought practically all of them.

[32] Freeman, History of Cape Cod, II, 640.

[33] Dedham Historical Register, Jan. 1893, 27.

Another phase of the struggle is recorded in the court records. For more than three decades after the adoption of the constitution of 1780 it was not definitely decided where the power to hire and dismiss ministers rested. There was a conflict between the traditional method of having the church members alone vote in such affairs and the new theory of an election by the qualified voters in a town or parish. As late as 1807 Chief Justice Parsons still referred to the "ancient usages of....pious ancestors" that were "wisely continued to this day." This statement was made in a court decision, notwithstanding the fact that the Declaration of Rights in the constitution and at least two statutes, enacted after 1780, seemed to provide for a new method of procedure. Judging from this and later court decisions, one is made to feel that it took the courts a long time to appreciate the fact that the old plan had been discontinued.[36]

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[34] Merrill, History of Amesbury, 321.

[35] Contributions to the Ecclesiastical History of Essex County, 226.

[36] 3 Mass., 159ff.; Clark, Congregational Churches in Mass., 320; Statutes 1786 ch. 10, and 1799, ch. 87. Parsons stated the general principle that "an office is holden at the will of either party, unless a different tenure is expressed in the appointment, or is implied by the nature of the office, or results from ancient usage." He then premised that ministers are supposed to rebuke those who indulge in vice and should be fearless in doing their duty. From that he inferred that tenure at will was not intended for them. He also pointed out that tenure at will might mean the dismissal of ministers after they had grown old in the service. That, he thought, could not have been the intent of those who made the laws. One is tempted to suggest that the courts followed all the alternatives only to find that they were blind alleys and then accepted the laws and the constitution as they actually read. The result was that when

In 1795 a case was brought into the Norfolk County court which involved the right of a church to dismiss its minister. He had been regularly settled in 1787, but, differences having arisen, the church wanted to dismiss him. He insisted on his prerogative to negative any action that the church, or even an ecclesiastical council, might take. Since the majority of the church was against him, a deadlock ensued. The church, following the advice of an ecclesiastical council, dismissed him, whereupon he brought suit in the name of a former deacon who was loyal to him. The counsel for the minister based their argument on the Cambridge Platform of 1648, as revised in 1660, and on a book by a Reverend Mr. Wise published in 1673. From these documents they established the theory that a minister had an absolute negative on all church proceedings. The counsel for the defense won the case by appealing to a law of 1700 which made the Cambridge Platform obsolete. It is significant that neither side appealed to the constitution and the laws made under it since 1780.[37]

The status of ministers of the dissenting denominations was affected by a court decision in 1797. The ruling was that

> "a man's being ordained over a voluntary association, formed by no act of government, and

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they did decide according to the laws and the constitution their former rulings were quoted against their decisions. The judge who attempts to modify laws that he thinks are bad is building on a dangerous foundation. On the other hand, one has considerable sympathy for judges who had to decide ecclesiastical cases in Massachusetts. The constitution and the laws were compromises that were not readily interpreted. No doubt a part of their virtue lay in the fact that they were not clearly understood by the makers. That made it possible to get a majority to vote for them.

[37] Massachusetts Historical Society Collections, first series, V, 49-52.

> bound by no law, could not be a settled minister within the meaning of the act."[38]

In 1802 when the parish of West Springfield voted to repair the meeting house the Methodists were taxed in spite of the fact that they had certificates to show that they attended upon the religious instruction in their own church. Their minister brought suit to collect the money paid by his hearers. The town won in the court of first instance, but the case was appealed. On appeal it was argued for the Methodists by James Sullivan, the attorney general of the commonwealth. After hearing the pleadings of the appellant and without even hearing the defense the court non-suited the case on the ground that a circuit rider could not be recognized as a minister under the laws of the commonwealth. The Methodists were beaten in the courts, but they did not accept the defeat as final. They united with the Baptists in the town meeting—together they had the majority—and voted that each of the parties in the suit should pay its own expenses. Next they voted to open the meeting house to the three denominations, each for one third of the time. During the next year the Baptists built a meeting house of their own, after which the Methodists and Congregationalists each occupied the meeting house of the town for half time. Thus, although the Congregationalists won in the courts, their victory was a hollow one.[39]

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[38] Ibid. 48–49.

[39] Stevens, Memorials of Methodism, second series, 201ff.; 1 Mass., 32ff.; Amory, Sullivan, I, 344; II, 194. The Methodist minister admitted that he was suing for money paid into the town treasury by some who were hearers but not members of the Methodist church. The court held that "it would have the most direct tendency to subvert the regular societies in the community" if circuit riders could collect the taxes paid by their hearers.

In another series of cases the courts were called upon to define the rights and limitations of a parish. The rulings were as follows: (1) the parish cannot collect taxes except for settling a minister, building a meeting house, and for charges arising from these actions; (2) the incorporation of a parish into a town does not extinguish the parish; (3) an inhabitant of a town or parish cannot be taxed for property held in another town or parish.[40]

The opponents of the established church won a signal victory in 1807, when James Sullivan was elected governor of the commonwealth. No man prominent in Massachusetts politics at that time had made a more valiant fight for religious freedom than Sullivan. He now gave further evidence of his liberal opinions in the inaugural address. During his administration a bill was passed which would have favored the dissenters, but it was defeated upon reconsideration.[41]

The election sermon in 1807 was preached by the Reverend William Bentley of Salem, a friend of Sullivan and one of the few Congregational ministers who had accepted Republican principles at that time. He was also one of the great scholars in America. In his diary for February 21, 1808, he gives the following account of the bill which was being discussed in the General Court and of the religious and political situation in general:

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[40] 1 Mass., 180ff.; 3 Mass., 243; 5 Mass., 546. In 1806 Chief Justice Parsons instructed a grand jury in the following language: "The diffusion of religious knowledge is . . . essential to the well being of the State. And it cannot be effected but by the settlement and support of teachers in towns, parishes, and societies incorporated for religious purposes." See Parsons, Parsons, 201ff.

[41] Amory, Sullivan, I, 181ff., 344, 385ff., 389ff.; II, 191, 194, 203–204; Stevens, Memorials of Methodism, second series, 203; Journal of the House of Representatives, Feb. 4, 1808, 111; Diary of William Bentley, III, 345–346. See also 156, 188, 191, 192, 201, for evidence of the growth of the Baptist denomination in 1805. In Sedgwick, Maine, the Congregationalist minister turned Baptist. On September 15, 1805, Bentley wrote, "The Baptists are the most growing sect of the present times."

> "In the past week was reported to us the Worship Bill. The various sects have prevailed so far in Massachusetts as to embrace a great part of the population. For tho' societies are not formed & houses of worship built yet in all our incorporations a number may be found who are prevented only from the want of some enterprising man to engage in the work of seperation. The first object of the worship Bill is to remove all legal impediments to any voluntary religious association, or in other words to destroy parish lines so far as regards the payment of teachers of religion. The Bill was negatived upon 4 Feb. by 127 to 102 & I do not think that the numbers are far from the relative progress of opinion on the subject. The friends of the Bill were those who are opposed to all religious establishments upon the principles of civil liberty, & from an aversion to the Clergy, who appear freely in all controversies in the Commonwealth on the side of power. As soon as the Bill appeared it was denounced by the Opposition as the Infidel Bill. It then was vindicated from this imputation by the names of its supporters. Such as Judge Bacon of Berkshire, formerly Minister of Boston & President of the Senate, & Deacon Goodwin, who belongs to Charlestown & is much celebrated by all parties for his sincere piety & great

simplicity. *The increase of the sects must eventually make this law necessary.* But the fury of the opposition was great especially by such men as wished to sound a religious alarm against the Republicans. As the Methodists have a travelling minister their names are not given but whoever will compare the Mass. Register of the Clergy in 1777 with that of the present year, and those of the intermediate years, will see the increase regularly reported which still do not inform of more than half the real number of Dissenters from the Congregational Churches, both in mind & in practice. The Baptists had formerly 2 Congregations in Boston, now four. No Methodists till lately, now 2 Assemblies, and the other sects increase in proportion. When I came to Essex there was one Baptist Society in Haverhill, and the beginning of one in Danvers. We have now 12 worshipping assemblies of that name. We find about 200 Associations of them in the Register of 1808, but in the Register of 1777 not a fifth part of that number, & this of one sect only. The English Episcopalians decrease, but the Methodist Episcopalians are a sect new & spreading. The Baptists begin to divide, & we are not without other sects which have not yet strength enough to assert their full claims. We cannot reckon more than double the number of Congregational Churches so that all the parishes formed by law do not number more than double the number of Baptists. *And we are to remember that the Congregational Churches agree only in one point, that is, they rest upon*

> *the establishment of Parish Laws*. . . .In Convention they have aimed at Consociation in vain. They are jealous of their opinions. And the strict adherents of the Platform are not numerous. The Calvinists are not the greatest number. The Edwardists or Hopkinsians take their place. The Sublapsarians, the Arminians, the Unitarians, without open separation constitute a very powerful interest."[42]

Bentley's analysis anticipated future events. He sensed the approaching schism in Congregationalism as well as the growing strength of the other denominations. He recognized that division would ultimately lead to its loss of control in religious and political affairs. He was right in thinking that the bill which had been defeated upon reconsideration in 1808, or one like it, would be passed at some future date.

When the Republicans lost control of the legislature in 1808, the progress of religious freedom was temporarily checked.[43] In the following year the Federalists also elected the governor. When in power they tried to discredit the opponents of the established church by pointing to the extravagances of some of the dissenting sects.[44] In the convention sermon in 1808 the Reverend Daniel Chaplin gave his fellow ministers in the Congregational church some timely advice. He called for unity, probably having in mind the theological differences that were bringing schism into the church. He also pointed to a ministry that was above party politics and political methods.[45]

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[42] Diary of William Bentley, III, 345–346. Italics mine.

[43] Robinson, 81 note, 148–149; Sears, Jefferson and the Embargo, 176–177.

[44] Diary of William Bentley, III, 505.

Theological differences in the Congregational church and the increase in the membership of the dissenting denominations made the transfer of church membership a more and more common occurrence. But the courts were slow to recognize the importance of this action on the part of individual church members. In the case of Avery *versus* Tyringham, Chief Justice Parsons made the significant pronouncement that

> "It has been the uniform opinion of all the judges in the higher courts, that where no tenure was annexed to the office of a minister by the terms of settlement, he did not hold office at will, but for life, determinable for some good and sufficient cause, or by the consent of both parties."[46]

The implication seems to be that the courts were to determine the sufficiency of the cause. But the laws permitted the individual members to transfer their membership from one church to another. In the case of Montague *versus* Dedham, the court decided that such a transfer was valid even though there was no plea of conscientious scruples.[47] Following that decision, in the case of Thaxter *versus* Hingham, the court ruled that Thaxter could not be taxed for the support of the church in Hingham after he had written a letter to the town clerk, stating that he wished to be released from the religious tax in that town on the ground that he desired to become a member of the Episcopal society in Scituate. In this case it was known to the court that Thaxter did not attend the Episcopal worship at Scituate regularly and that he had no conscientious scruples against an establishment. The argument of the counsel for the town of Hingham was prophetic. He pointed out that if any person could avoid the religious tax by simply writing a letter to the town clerk it would be impossible to maintain public worship.[48] A minister could not be dismissed without sufficient cause, but all the members of a church could transfer their membership to another church. In one case a whole congregation seems to have changed its membership in order to avoid the effects of a court decision.[49]

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[45] Convention Sermon, 1808; Manning, 29. Manning, although, not a man of "larning" had advised the ministers against dabbling in party politics just ten years before.

[46] Parsons, Parsons, 322; Zollman, American Civil Church Law, 343-344; 3 Mass., 159ff.

[47] 4 Mass., 268ff.

When the Federalists regained control of the commonwealth government, the courts seem to have veered in favor of the establishment. In 1809 the Reverend Ezra Kendall of the Baptist churches of Middleborough and Kingston was denied the right to collect the money paid by his parishoners in Kingston, on the ground that the society was not incorporated and that he was not settled in the parish.[50] During the next year in the case of Barnes *versus* Falmouth the court ruled that a society must be incorporated before its minister would be recognized.[51] This decision, which seems to have been an afterthought on the part of the judges, was up-held in later cases.[52] No less an authority than Joseph Story of the United States Supreme Court stated that for thirty years the courts of the commonwealth had interpreted the terms "religious societies" as used in the constitution to mean unincorporated as well as incorporated societies. Other authorities agreed with Story. The dissenters were never reconciled to the decision.[53]

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[48] 4 Mass., 570; Robinson, 148; Mass. Laws, 1811, ch. 73.

[49] Contributions to the Ecclesiastical History of Essex County, 244.

[50] 5 Mass., 524ff.; Diary of William Bentley, III, 436.

[51] 6 Mass., 400ff.

In 1810 the Republicans were again in office. The religious issues no doubt played an important part in the Federalist defeat, especially in the eastern part of the commonwealth.[54] The Republicans took the sting out of the court decisions by passing the Religious Freedom Act of 1811. Under that law any person who could furnish a certificate showing that he belonged to a religious society, corporate or unincorporated, other than the regularly established society of the town or parish, could avoid paying the taxes for the support of the established church.[55]

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[52] 7 Mass., 230ff.; 7 Mass., 59ff. In the last mentioned case it was held that a religious teacher to be recognized as eligible for the taxes must be the teacher of one incorporated society and only one.

[53] Buck, Ecclesiastical Law, 42–43; Debates of the Convention of 1820, 561–562. Buck quotes Dane as stating that it had been "six times solemnly decided" that incorporation was not necessary under the constitution. See also Mass. Hist. Society Collections, first series, V, 48–49.

[54] Robinson, 148–150; Diary of William Bentley, IV, 30; Diary of Thomas Robbins, I, April 9, 1810. Robbins wrote, "It appears the people of Massachusetts are again to have the trial of a Democratic Governor. The anger of heaven is very manifest toward us in the infatuation of the people."

[55] Austin, Life of Gerry, II, 319, 336–338; Love, Fast and Thanksgiving Days in New England, 388; Buck, Ecclesiastical Law, 43–44, 46 note 1; Robinson, 149. Buck traces the development of the certificate system after 1800. By the act of 1800 certificates were to be signed by the minister and a committee of two members of the society. After 1811 the minister's signature was no longer needed. By the act of 1823 the clerk alone signed the certificates. Robinson seemed to infer that certificates meant exemption from the taxes.

The dissenters, except the Quakers, were not exempt from the taxes, but the taxes which they paid could be collected by their own ministers. According to Bradford, the law "alarmed many of the sober citizens of the State" because it gave opportunity to those who were so inclined "to evade the plain injunctions of the constitution."[56] The Republicans also offended many "sober citizens" by their other activities. They proscribed the Federalists, interfered with the "sacred clergy" at Harvard University, and with the court system. Besides, the party was unpopular because of national affairs. In 1812 it was swept out of power in Massachusetts, not to return until 1823.[57]

The Federalists seem to have been convinced that the law of 1811 should be repealed. In a court decision in 1817 Chief Justice Parker said:

> "We are well aware of the great inconveniences, and the injury to public morals and religion, and the tendency to destroy all the decency and regularity of public worship, which may result from a general application of the indulgence granted by the legislature, in that statute, (the act of 1811) to all persons who may choose to associate, and withdraw themselves from the regular and established reli-

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The Quakers were the only sect that was exempt. See 6 Mass. 415–417. They gained exemption by the law of 1800. One of the grievances of the other sects was the fact that they had to get the money from the town treasurers where it was paid. In one case a Baptist minister spent one hundred dollars to obtain four dollars from the treasurer. See Debates of the Convention of 1820, 366.

[56] Bradford, III, 116–117.

[57] Barry, III, 366; Bradford, III, 121, 124; Quincy, History of Harvard University, II, 294–296, 301–304; Morison, H. G. Otis, II, 242–243; Austin, Life of Gerry, II, 318, 322, 323; Diary of William Bentley, IV, 14.

> gious societies in towns and parishes, which, being by law obliged to support public teachers, may thus have their means and power so much diminished as to render that oppressive and burdensome. But our duty is to give effect to such acts of the legislature as they have the constitutional authority to make, without regarding their evil tendency or inexpediency. Subsequent legislatures may correct the proceedings of their predecessors, which may be found to have been improvident or pernicious."[58]

Had it not been for the Unitarian schism, which divided the Congregationalists into two camps, the law would undoubtedly have been repealed.[59]

The courts were at this time called upon to decide cases that were of far-reaching effect. These arose out of the Unitarian schism. The town of Sandwich had developed different theological views from those held by its minister, the Reverend Jonathan Burr. The town called for an ecclesiastical council, but Burr refused to join in calling it. The town proceeded to call an *ex parte* council, but the members of the church supported Burr. The court decided that the *ex parte* council was properly called and that its decision was final. This decision subordinated the minister and the church members to the town or parish.[60]

After the passage of the Religious Freedom Act of 1811 the commonwealth no longer supervised the quality of religious instruction. The sects were placed on an equal basis with the Congregationalists in the matter of supporting their own ministers. They could choose their own ministers and decide on their qualifications.[61] As the schism between the Unitarians and Trinitarians in the Congregational church deepened, the prejudice against the dissenters was less marked.

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[58] 14 Mass., 340ff.; Buck, 45–46.

[59] Diary of William Bentley, IV, 30, 33–34, 38.

[60] 9 Mass., 276ff.; 3 Mass., 159ff.; Buck, 240–241. Although the constitution of 1780 seems to be fairly clear in providing that the town rather than the church members was in control of religious affairs, it took the Unitarian controversy to make this evident to the Congregationalists.

The relation between party politics and religion from 1790 to 1815 was an important factor in the development of both. The Congregationalists and the Federalists supported each other. The Republicans tried, at first, to keep politics and religion separated; but when they found it impossible to do so in Massachusetts, they enlisted all the prejudices against the Federalist-Congregationalist alliance in favor of their own cause. When the Republicans came into power, with the election of James Sullivan as governor in 1807, they almost succeeded in enacting a law in favor of the dissenters. In 1808, however, the Federalists came back into power and postponed the Religious Freedom Act until 1811. At that time the Republicans went to such extremes in their anti-Federalist activities that they never regained control of the commonwealth until 1823. The act of 1811 was probably more liberal than public opinion demanded, but the division of Congregationalists into Unitarians and Trinitarians reduced their strength and made it impossible for them to repeal it. The decisions of the courts seem to indicate that judges wavered between "ancient usages of pious ancestors" and the constitution and laws made under it. Chief Justice Parker in 1817 finally took a stand on the law, even though he seems to have thought it unwise legislation. The act of 1811 made it possible for practically all dissenters to avoid the taxes for the support of the Congregational church. Not that they could avoid payment altogether, but they could arrange to have the money applied to one of the dissenting denominations. It pointed the way to disestablishment.

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[61] Buck, Ecclesiastical Law, 45.

CHAPTER VI

SCHISM IN THE CONGREGATIONAL CHURCH. UNITARIANS *VERSUS* TRINITARIANS

The opening of the nineteenth century found the Congregational church in Massachusetts threatened by a triple schism in theology. The "Old Calvinists," theological descendants of the Stoddardeans of the eighteenth century, though believing that conversion was "the work of God," were not unwilling to admit that a man could "put his soul in a position likely to receive the regenerating touch of God's spirit."[1] In other words, according to their theory, man had an important part in the shaping of his own destiny. The "Consistent Calvinists" or Hopkinsians were the theological descendants of Jonathan Edwards. They believed in instant and complete repentance and conversion. They also emphasized the predestination theory. Like Edwards, they were in favor of religious revivals. Their strength lay in the more remote parts of the commonwealth and in Connecticut, where most of their prominent leaders were born.[2] The stage seemed to be set for a sharp conflict between these two factions on the question of salvation and the means of attaining it, when the rise of the Unitarians led them to compound their differences in order to launch an effective attack upon the new "heresy."[3]

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[1] Walker, History of Congregational Churches, 348–349; Walker, Ten New England Leaders, 338, 361–363, 374; Quincy, History of Harvard University, II, 262–263, 286–287; Diary of William Bentley, III, 38, 322, 334, 386; IV, 366. The "Old Calvinists" were represented on the Harvard University faculty by the professor of Hebrew and the Hollis Professor of Divinity.

[2] Woods, History of Andover Theological Seminary, ch. i; Walker, History of Congregational Churches, 266, 280, 285–293, 299–300, 304; Walker, Ten New England Leaders, 338.

The liberal faction in the Congregational church, which later developed into the Unitarian church, was not entirely new in 1800. From the beginning there had always been a faction in New England that was unwilling to accept strict Calvinism.[4] As early as 1750 the liberals in theology were frequently called Arminians, but it is doubtful whether they should have been classed as of the school of the Dutch theologian. Professor Francis A. Christie maintains that neither deism nor Arminianism existed at Harvard College before the Revolution. Yet he points out that the institution was the "agent in the relaxation of orthodoxy" in Massachusetts.[5] Those early liberals may have been called Arminians to stigmatize them. Moreover, there may have been no more fitting name to apply to them. There is, however, sufficient evidence to show that the divinity of Christ was a theological issue as early as 1758. The Revolution postponed theological controversies. With the opening of the nineteenth century the postponed issues were again raised.[6]

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[3] The Christian Disciple, 1822, 86ff.; Woods, 41, 45; Walker, Ten Leaders, 292, 363–364, 405.

[4] Ellis, Half-Century of the Unitarian Controversy, 19ff.; Boston Gazette, June 12, and Nov. 13, 1758.

[5] American Society for Church History, Papers, second series, III, 154; Ellis, 23.

[6] Peabody, Channing Hall Lectures, 155–177; Eliot, Heralds of a Liberal Faith, I; Ellis, 21, 439; Walker, Ten Leaders, 296–299, 363; Walker, History of Congregational Churches, 278–280, 305, 330. As long as the liberals remained in the established church in Massachusetts it was not necessary for them to define their position in

Three events before 1800 anticipated the Unitarian controversy. The first of these was the ordination of the Reverend James Freeman by the King's Chapel religious society in 1787. He had been called to be the religious teacher of the society in 1782, after the church had been closed for six years on account of loyalism during the Revolution. He accepted the call, but soon began to revise the ritual. The society accepted the revisions which he suggested, but it could find no Episcopal bishop who would ordain him under the circumstances. It overcame this difficulty by appointing representatives from the congregation to perform the ceremony. This unique method of procedure did not affect the Congregational churches at that time, because King's Chapel was not of that denomination.[7]

The second event in the development of Unitarianism in America was the coming of the Reverend Joseph Priestley from England in 1794. By founding the first Unitarian society in Philadelphia he established connection between the English Unitarians and the American liberals.[8]

The third event more directly anticipated the controversy and schism in Massachusetts. It was the election of the Reverend James Kendall, a Unitar-

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detail. After they were out of the Congregational church (the Trinitarian Congregational church) a constructive program was necessary. Figgis, in his "Churches in the Modern State," brings out that fact. He says, "Even if you reduce Christianity to a Unitarian modernism, Christians will still be distinct from those who have no faith in the other world." See page 132.

[7] Eliot, I, 158: II, 2; Peabody, 167–169; Cooke, Unitarianism in America, 76; Walker, History of Congregational Churches, 330–331; Wallington, Historic Churches in America, 30; Tiffany, History of the Protestant Episcopal Church, 368ff.

[8] Eliot, I, 64–65; Diary of William Bentley, II, 97, 110, 112, 113, 124, 126, 207, 316, 330.

ian, by the church and parish in Plymouth in 1799. Although the vote of the church was only twenty-three to fifteen in his favor, the vote of the parish was two hundred and fifty-three to fifteen. Three years later the Trinitarian members of the parish withdrew to establish the Third church in Plymouth.[9] Other parishes were dividing along theological lines.[10] The controversy could not be limited to single parishes indefinitely. In 1803 an event occurred which aligned the two factions in the Congregational church against each other for the control of Harvard University. At that time Harvard was practically a state university, controlled by a board of overseers consisting of political officers in the commonwealth and ministers of the Congregational church. This made it a focal point in political and religious controversies.[11] The corporation was dominated by the "Old Calvinists" until 1803, when the death of the Hollis Professor of Divinity, who was a member, left it equally divided between the "Old Calvinists" and the liberals. Before it was possible to agree on a new member two others had died. The deadlock was then broken by the election of the Reverend John Eliot, a liberal. The liberal candidate, the Reverend Henry Ware, was then, in 1805, elected to the Hollis Professorship of Divinity.[12]

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[9] Plymouth Church Records (In Publications of the Colonial Society of Massachusetts), II, 538ff.; Cooke, 84, Diary of William Bentley, II, 431; Walker, History of Congregational Churches, 334.

[10] Diary of William Bentley, II, 452; III, 153–155; Morse, Annals of the Church in Brimfield, 31ff.; Walker, History of Congregational Churches, 334.

[11] Diary of William Bentley, III, 40, 149–150, 317, 537, 538; Quincy, History of Harvard University, II, 294–296, 301–304; Channing, History of the United States, V, 256–257; Debates of the Convention, of 1820, 69ff. The Board of overseers was changed in 1810, 1812, and 1814. Politics wrought havoc with educational standards. For an estimate of educational standards see, Life, Letters, and Journals of George Ticknor, I, ch. xviii.

Bitterly disappointed because of the election of Ware, the Trinitarians began to look for another institution in which to educate their ministers. Before taking up the founding of the Andover Theological Seminary, however, it seems expedient to trace the development of Harvard University for a few years following the election of Ware. The Reverend William Bentley of Salem reported that a member of the corporation informed him that "Every minister & every man's friend in the commonwealth" was proposed for the presidency of the institution.[13] From the same source we learn that politics played a prominent part in the affairs of the university; the "College was not filled with Prominent characters, either as Gentlemen or Scholars or as commanding influence in the State."[14] Fisher Ames, who had a national reputation in politics, declined the presidency, leaving the corporation to select from the lesser lights among the candidates. When it decided on Samuel Webber, Hollis Professor of Mathematics and Natural Philosophy, the professor of Hebrew, who had been acting-president, resigned his professorship. At about the same time two new professorships were created. Before these were filled several persons had declined the appointments. The liberals apparently took advantage of their control of the corporation; by 1818 there was not a single Calvinist left on the faculty. As was to be expected under the circumstances, the Calvinists no longer supported the institution, which consequently suffered heavily in prestige.[15]

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[12] Manuscript Diary of John Eliot, 29ff.; Morse, True Reasons on which the Election of the Hollis Professor of Divinity was Opposed; Diary of William Bentley, III, 38, 149; Quincy, History of Harvard University, II, 284–285, 314; Walker, History of Congregational Churches, 335; Ellis, Half-Century of Unitarian Controversy, 407–408. The Trinitarians maintained that Thomas Hollis, the founder of the Hollis Professorship who was a Baptist, intended that the incumbent should always hold the Calvinistic theology. The Unitarians resented the accusation that they were misusing the fund.

[13] Diary of William Bentley, III, 204. See also Clark, Congregational Churches in Massachusetts, 235; Cooke, Unitarianism in America, 92–94; Punchard, History of Congregationalism, V, 611–612; Mass. Hist. Soc. Proceedings, 1862–1863, 284.

[14] Diary of William Bentley, III, 40, 138, 149–150, 202, 204, 220, 317.

The Andover Theological Seminary grew out of a combination of events and conditions. The capture of Harvard University by the liberals was the occasion rather than the cause for its founding. The original purpose of Harvard and Yale was to educate the clergy. The failure of Harvard to fulfill its purpose had led to the founding of the Hollis Professorship of Divinity in 1721.[16] After that the demands for religious education seem to have been supplied until the opening of the nineteenth century. The western part of the commonwealth drew more or less heavily upon Yale for its ministers. By 1800 both the "Old Calvinists" and the Hopkinsians were interested in more definite theological instruction. There was little thought of coöperation, however, until the Unitarian movement got under way. That movement, together with the resignation of the professor of Hebrew at Harvard University because of dissatisfaction, furnished the opportunity for a compromise.[17] The new institution was a counter move against the liberalism at Harvard.[18]

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[15] Ibid., III, 137–138, 202, 219–220, 531–532; IV, 366; Quincy, History of Harvard University, II, 284–292, 324–326; Burgess, Pages in the Ecclesiastical History of New England, 79; Life, Letters, and Journals of George Ticknor, I, ch. xviii.

[16] Christian Examiner, VII, 84; Walker, History of Congregational Churches, 346ff. The educational facilities at that time as well as in later years tended to get into the control of the intellectual group as opposed to the religious group. For that reason many of the Calvinistic ministers were not trained in the university, but were taught by the older ministers in their homes. Such a method of training them was unfortunate for the university because it developed an estrangement between the Calvinistic ministers and the institution.

The seminary, recognized by law in 1807, took over the theological part of the curriculum of Phillips Academy. The trustees were authorized to "receive, purchase, and hold,...real and personal estate" for a theological institution.[19] All of the professors in it were to give assent to a composite creed, in which the "Old Calvinists" made the greater concessions in compromising with the Hopkinsians. Generous financial support made it possible for the seminary to render a very important service to its constituency.[20] During the thirty years from

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[17] Woods, History of Andover, 52. Professor Eliphalet Pearson held the chair of Hebrew from 1785 to 1806 when he resigned. He had also been acting-president.

[18] Woods, 58–59; Walker, History of Congregational Churches, 347ff.; Walker, Ten Leaders, 363ff.; Ellis, Half-Century of Unitarian Controversy, 442.

[19] Bush, History of Higher Education in Massachusetts, 236; Quarterly Register, XI, 64; Walker, History of Congregational Churches, 348–352; Ellis, Half-Century of Unitarian Controversy, 442.

[20] Bush, 240–241; Quarterly Register, XI, 63–81; Diary of William Bentley, III, 334, 378, 403–404, 470–471; IV, 13–14; Report of the American Unitarian Association, 1830, 34; Walker, History of Congregational Churches, 351–352, 389–390; Woods, 100ff., 139–140. Bentley tells how the leaders of the seminary movement took advantage of the widow of John Norris. "As soon as the danger (severe illness) was known the house was beset with the fanatic priests, the relatives were discharged from their attendance, the friends excluded, & these fanatic priests proceeded in the great work of turning her interest into the use of the Church. They gave 30 th. D. to the institution & 30 th. more to the missionaries they patronize, put down one thousand each for the four priests who beset the dying woman. . . . This is support to a Good cause with a vengeance. . . Hopkins, Emerson, Worcester & Spring attended & put themselves in for 1000 D. each . . . ."

The creed of the seminary caused much litigation later. Walker says, in a reference to the Chicago Seminary, "The founders were far-sighted and ingenious, and they had the advantage of living in a time when confidence in the power of the Congregational polity to care for institutions representative of large bodies of our churches

1810 to 1840 no less than twelve hundred different students attended the seminary, approximately seven hundred and fifty of whom took degrees.[21] It was a private institution, except for the fact that the supreme court of the commonwealth had appellate jurisdiction in cases when the self-perpetuating "Board of Visitors" took action against the trustees or professors on the ground that they were not properly executing the provisions of the trust.[22]

At the time of the founding of the seminary there was no definite separation between Unitarians and Trinitarians in the Congregational church. Feeling, however, was growing more and more intense. When some Trinitarians refused to fellowship with the liberals, matters were brought to a crisis.[23] Differences arose between ministers and their congre-

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was much greater than when the New England seminaries were instituted. Instead, therefore, of committing their foundation to the charge of a self-perpetuating board of trustees, whose action was supervised by an equally self-perpetuating board of visitors, and the orthodoxy of whose professional appointments was tested by an unalterable creed, as at Andover; or making their foundation simply a department of a university responsible to a general corporation . . . they adopted the much more Congregational plan . ."

[21] General Catalogue of Andover Seminary, 1880, 232. The number of graduates for each year to 1840 is given as follows:

1810—16
1811— 6
1812—11
1813—14
1814—17
1815—17
1816— 9
1817—20
1818—17
1819—20
1820—28
1821—30
1822—28
1823—24
1924—33
1825—32
1826—26
1827—33
1828—20
1829—34
1830—28
1831—45
1832—29
1833—23
1834—37
1835—37
1836—13
1837—37
1838—29
1839—23

See also Woods, 138.

[22] The Andover Heresy, 1-7; Walker, History of Congregational Churches, 352.

[23] Diary of William Bentley, IV, 38; Walker, Ten Leaders, 396-399. Only Calvinistic ministers assisted at the installation of Edward Dorr Griffin in Boston. In Dorchester the Reverend Mr. Codman and his society disagreed in the matter of inviting other ministers to exchange with him.

gations and parishes. Such differences led to cases in court. In 1811 the first parish of Sandwich dismissed its minister, the Reverend Jonathan Burr, by a vote of eighty-three to eighty. He refused to be bound by the parish decision and was supported in his stand by nine-tenths of the members of the church. The parish restrained him from preaching in the meeting house, whereupon his followers built a new meeting house and organized a Calvinistic Congregational church. The minority of the church members remained with the parish, and together they claimed the church property. The courts were asked to decide the case. Chief Justice Parsons interpreted the constitution and the laws made under it to give the parish the right to choose and dismiss ministers. The parish, therefore, was legally entitled to the church property. The followers of Burr, as well as the Calvinistic Congregationalists in general, opposed the action of the courts on the ground that it subjected the church to the worldly members of the parish. The decision marks the beginning of the struggle for the church property, which created strong prejudice between the two factions in the Congregational church.[24]

In 1815 a pamphlet war between the two factions opened, the occasion for which was the publication of a review of a book, or rather a part of a book, that had appeared in England three years before. The greater part of the book was devoted to the memoirs of Theophilus Lindsey, a prominent English Unitarian who died in 1808. The editor, the Reverend Thomas Belsham, included a chapter on

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[24] 9 Mass., 276ff.; 3 Mass., 179–182; Clark, Congregational Churches in Massachusetts, 244–245; Buck, Ecclesiastical Law, 241; Diary of William Bentley, III, 538.

American Unitarianism. It was based upon information sent to him by the Reverend James Freeman of King's Chapel and the Reverend William Wells of Maine.[25] The review by the Reverend Jedediah Morse appeared in the Panoplist, the organ of the Calvinistic Congregationalists, and also in pamphlet form.[26] No satisfactory reason has been given to explain why Morse chose that time for the opening of the controversy.[27]

The Unitarians were impeached by Morse on three charges; secrecy, union with Belsham's universalism, and a closed, selfish, self-satisfied attitude. The first of these charges he supported by letters from the two Americans who had supplied Belsham with his information about American Unitarianism. They admitted that they had placed Unitarian literature in the library of Harvard University. The second charge was based on an inference. Since the chapter on American Unitarianism had appeared in Belsham's book, Morse inferred that the English and American Unitarians coöperated. The last charge was supported by pointing to the extraordinary number of pronouns, especially those in the first person, found in the letters. Morse also claimed that whenever any person accepted the Unitarian faith he was lauded by his fellow Unitarians, regardless of his character. He condemned secrecy in poignant language.[28]

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[25] Chadwick, William Ellery Channing, 129; Channing, Channing, 195; Clark, Congregational Churches in Massachusetts, 248–249; Cooke, Unitarianism in America, 102; Mode, Source Book of American Church History, 402–403, gives the letter of Wells to Belsham.

[26] Panoplist, XI, 241ff.

[27] For the several explanations why Morse opened the controversy in 1815 see Platner, Religious History of New England, 104ff.; Baird, Religion in the United States, 276; Punchard, History of Congregationalism, V, 636; Burgess, Pages from the Ecclesiastical History of New England, 69; Panoplist, XI, 264ff.

The first reply to Morse's review came from the Reverend William Wells of Maine, one of the two Americans who had sent Belsham his information on American Unitarianism. The significant reply, however, came from the pen of the Reverend William Ellery Channing in a letter to the Reverend Samuel C. Thacher. Channing denied that the Unitarians in America agreed with Belsham. The charge of secrecy he parried by stating that he preferred to work in a quiet manner.[29] These replies were the opening guns in a conflict which called forth all the logic that Harvard and Andover could muster. The result was an armed truce; the two factions in the Congregational church were driven further apart in another demonstration of the futility of logic to convince men to change their religious beliefs. As usual in such arguments, each side became more confirmed in its own belief.

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[28] Panoplist, XI, 262. Morse wrote, "The conduct of Belsham, rotten as it is, in point of doctrine, to the very core, is purity itself compared with the conduct of these." He was referring to the American Unitarians who led people astray without openly admitting their own beliefs.

[29] Chadwick, William Ellery Channing, 133ff.; Tracts on the Unitarian Controversy; Diary of William Bentley, IV, 326, 342; Channing, Channing, 194ff.; Walker, History of Congregational Churches, 339ff.; Mode, 402–403; The New England Quarterly, III, 64. Chadwick reports Channing as saying, "For myself the universe would not tempt me to bear a part in this work of dividing Christ's church and of denouncing his followers." On the other hand, Bentley, who was himself a Unitarian, thought Channing was "a mad man only in political party." William Hazlitt, a foreign critic, wrote, "We like Dr. Channing's sermons best; his criticisms less; his politics least of all." Channing called the article in the Panoplist a "criminal instance of unfairness." Wells recognized the fact that Unitarians had nothing to gain by exciting the public over the controversy. "One Dr. M., in a contest for spreading his own sentiments among the great body of the people, would, at least for a time, beat ten Priestleys."

Schism was openly recognized. Neither faction attained the ideal expressed in the lines of Edwin Markham:

"He drew a circle that shut me out
Heretic, rebel, a thing to flout,—
But love and I had the wit to win;
We drew a circle that took him in."[30]

Channing's letter to Thacher was answered by the Reverend Samuel Worcester of Salem, a sturdy defender of the Calvinistic theology. Two more letters came from Channing and two from Worcester; the first phase of the controversy was over. Before the disputation had closed, however, a pamphlet signed by "A Layman" had appeared. This pamphlet from the pen of John Lowell represented another type of literature. If love, peace, and tolerance were Unitarian virtues, Lowell had not drunk deeply at the fountain of Unitarianism! If reconciliation was the aim of the liberals, Lowell's pamphlet was a distinct liability to their cause.[31]

The leaders of the Trinitarian wing of Congregationalism attempted to form an association of churches in order to stem the tide of the new "heresy." Their efforts were in vain, however, for not only Unitarians, but many Trinitarians were unalterably opposed to any such organization.[32] No doubt the Unitarians desired to leaven the whole established church, but they were too aggressive to succeed with their program. In 1816 they established the Divinity School at Harvard University. Three years later Channing preached his famous Baltimore sermon, at the ordination of Jared Sparks, in which he outlined a positive program for the liberals. Before that time the Unitarians had contented themselves in criticising the Congregational church; thereafter they became aggressive and organized a church of their own. When the time came for the annual convention of Congregational ministers in 1820, the Unitarians held a separate convention. Channing preached the sermon. He stressed the importance of a union of liberal ministers. The Unitarian publishing society was organized in 1821. Four years later the American Unitarian Association was founded.[33] Apparently Unitarians were not opposed to associations in general, but only to associations in which the liberals would have been in the minority.[34]

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[30] Hibbert Journal, Jan. 1923, 305.

[31] Tracts on the Unitarian Controversy; Walker, History of Congregational Churches, 340. Worcester had been dismissed from his charge in Fitchburg, Massachusetts, in 1802 because of his Calvinism.

[32] Clark, Congregational Churches in Massachusetts, 238–242. One of the local associations opposed a general association and reported that if the plan was "to agree upon some general uniformity in the articles of our faith, uniformity in our churches to certain rules and modes of discipline, there would be a vain attempt to do what never can be accomplished in the present age by all the wit, wisdom, and goodness of man."

As has been suggested, an important factor in the development of lasting prejudice between Unitarians and Trinitarians was the controversy over the division of the church property. Some Unitarians and many Trinitarians were not convinced that the decisions of the courts were just and equitable. The fact that the majority of the judges were Unitarians was unfortunate for both factions.[35] The Trinitarians maintained that the church property belonged to the church members collectively. The fact that the deacons who managed the church property were chosen by the members supported their contention. The constitution, however, seemed to recognize "towns, parishes, precincts, and other bodies politic, or religious societies" as being on the same plane. In some towns the church members chose the religious teacher, but in others the voters in the town did the choosing. When towns or parishes contracted with their religious teachers the church members were bound no more and no less than other residents. Judges had emphasized the importance of precedent and usage, but they had also recognized the conflict between them and the constitution, before the Unitarian schism.[36]

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[33] Beard, Unitarianism in its Actual Condition, 9; Eliot, Heralds of a Liberal Faith, II, 42–43; Christian Disciple, 1820, 229–231; 393; 1821, 317; 1823, 212ff.; Punchard, History of Congregationalism, V, 642–645; Cooke, Unitarianism in America, 106–111, 117; Walker, History of Congregational Churches, 341; Channing, Baltimore Sermon. Walker suggests the date which marks the beginning of the Unitarian church as 1815. Cooke suggests 1825. I think Channing's Baltimore sermon and the controversies that grew out of it made it evident to both Unitarians and Trinitarians that reconciliation was no longer possible.

[34] Channing, Channing, 218ff. Channing accepted the "principle of association" although he recognized that it was "resorted to by all sects and parties."

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[35] Clark, Congregational Churches in Massachusetts, 249–251; Ellis, Half-Century of Unitarian Controversy, 415ff.

[36] 3 Mass., 179ff.; Clark, Congregational Churches in Massachusetts, Appendix III; Platner, Religious History of New England, 108ff. In the case of Avery *versus* Tyringham Chief Justice Parsons said: "By the constitution the rights of the towns are enlarged, if it choose to exercise them, and those of the church impaired. If the church, when their election has been disapproved by the town, shall unwisely refuse to make a new election, or the town, for any cause, shall abandon the ancient usages of the country for settling a minister, it may, without or against the consent of the church, elect a public teacher, and contract to support him. And such teacher will have a legal right to the benefit of the contract, although he cannot be considered as the settled minister of the gospel, agreeably to the usages and practice of the Congregational churches in the State. An adherence to these usages so manifestly tends to the preservation of good order, peace, and harmony among the people, in the exercise of their religious privileges, it may be presumed that a departure from them will never be admitted by any town, but in cases of necessity."

The epoch-making decision of the courts came in the Dedham case in 1820. Practically all of the facts in it are generally admitted. The minister, who had served the church of the parish since 1803, asked to be relieved in 1818 in order that he might accept the presidency of Middlebury College. He had had some difficulties because the Republicans in his congregation resented the attacks made by their Federalist brethren on Jefferson's religious views—attacks which they thought were political propaganda—but he had been able to avoid an open break between the church and the parish. As soon as his resignation was accepted the two factions aligned themselves for the election of a successor. There were two schools of theology to choose from, Harvard and Andover. The parish voted for Alvan Lamson, who represented the Harvard theology. The church members stood seventeen to fifteen against Lamson.[37] The parish called an ecclesiastical council which included among others the Reverend William Ellery Channing, Professor Henry Ware of the Harvard Divinity School, and President Kirkland of Harvard University—all staunch Unitarians. The council was called by the "First Parish of Dedham" and not by the first church of Dedham, since the church voted in the negative. When the council assembled Judge Haven read a protest in behalf of the majority of the church members. The council disposed of the protest by the statement that,

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[37] The Dedham Pulpit, 510 note. The church in Dedham admitted none to church membership before 1793 except those who gave "satisfactory evidences of vital piety." After 1793 admission was allowed to those who signed the covenant. Even after thus lowering the standard the number of church members was small. There were some women who were church members, but had no vote in the town meeting.

> "whereas cases may exist in which a majority of the church do not concur in the call of a minister,.....such cases may still be so urgent as to authorize an ecclesiastical council to proceed with the ordination."

It also admitted that it regarded

> "the well-known usage, according to which, the first step in electing a pastor is taken by the church as in the main wise and beneficial."

In spite of this admission, it ordained Lamson. That action caused a secession from the church.[38]

The controversy was next taken to the court of public opinion. The Trinitarians maintained that the action of the council was a dangerous innovation because it subjected the church to the will of the majority in a town or parish. That majority might consist of the unconverted. In their minds it was preposterous to contend that the makers of the constitution intended to have the church dominated by "infidels." The Unitarian organ, while admitting that Chief Justice Parsons in two cases had countenanced the Trinitarian contentions, produced an involved argument based on Greek, Roman, and English bishops to prove that the Dedham church included more than those who had been admitted to membership. It also maintained that "religious societies" as used in the constitution did not mean churches. A further argument was based on the fact that only about one-fifth of the people in the parish were church members. The writer asserted that it was absurd to speak of the four-fifths as "either infidels or vicious." Such arguments probably convinced few of the readers. When the author criticised the Trinitarians because by their plan many "clergymen" had been "imposed on the parishes," his position was unassailable. Did he mean to suggest that the parish should impose the clergyman on the church? Two wrongs seldom make a right![39]

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[38] Ware *et al.*, The Ordination Sermon and Result of a Council, 33–36; Christian Disciple, 1820, 266–268, 276ff.; Dedham Historical Register, April 1901, 36; Worthington, History of Dedham, 110–111; Ellis, Church and Parish in Massachusetts; Platner, Religious History of New England, 108ff.; Lamson, History of the First Church and Parish in Dedham, 98ff.; Buck, Ecclesiastical Law, 52; Spirit of the Pilgrims, 1829, 175, 328ff.; Dedham Pulpit, 510ff.; Walker, History of Congregational Churches, 341ff.; Channing, History of the United States, V, 212. The report of the council definitely states that, "On the part of a majority of the church, and a minority of the Parish, committees appeared and protested against the Council's proceeding to the ordination of Lamson." The Christian Disciple of 1820, a Unitarian organ, characterizes the opposition to Lamson as "a bare majority of a small church." In spite of these statements, Ellis and Professor Fenn (in Platner) seem to raise doubt on that point. They probably base their views on Lamson's statements. It seems to me the statement of the council and the admission of the Unitarian organ in 1820 far outweigh Lamson's arguments. If a majority of the church and of the parish had been in favor of Lamson, there would have been no cause for litigation. The majority could have elected deacons and through them controlled the church property. Some Unitarians pointed to the fact that the requirements for admission to church membership were too strict. But Congregational churches had the right to set the standards.

The attitude of the ecclesiastical council that ordained Lamson gives the impression that its members were partial toward the candidate of their own theology. Even though the action of the council was legal and constitutional, the Unitarians could ill afford to get into the "twilight zone" in such matters. If Channing could have anticipated the result of the action of the council, I doubt if he would have given his consent to the ordination.

The troubles in Dedham did not terminate with the ordination of Lamson. The seceders (the majority of the church members) organized a church of their own and called an ecclesiastical council for advice. The council advised against drastic action but offered no solution for the problem. The minority of the church members supported Lamson. They elected new deacons who found it necessary to bring suit in order to obtain the church property from the old deacons.[40]

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[39] Christian Disciple, 1820, 266ff.

The case was argued in the courts in 1818, again in 1819, and finally in the highest court of the commonwealth in 1820. Each time the newly elected deacons won over the seceding deacon. The courts ruled that the property was held by the church, as a trustee for the parish, and therefore if the church seceded from the parish it could not take the property with it. Even if all the members of the church had seceded from the parish, the property would still have belonged to the parish.[41]

Such a decision might have been made in 1800 without arousing a tithe of the prejudice which it created in 1820. The Unitarians were slowly getting control of the parishes in the eastern part of the commonwealth. As the parishes elected Unitarian ministers the Trinitarian members of the church would secede, leaving the church property to the control of the Unitarians, who theoretically held it in trust for the parish. The Trinitarians called this process the "plundering" of their churches. They claimed that the Unitarians took six hundred and eight thousand dollars worth of their property. There were eighty churches involved in the process of separation. The total membership of these churches was approximately five thousand two hundred. The seceders numbered almost four thousand. Stated in bald terms, from the viewpoint of a Trinitarian, the Unitarians who did not secede from the parishes took all of the church property and funds, although they numbered less than one-fourth of the church members. At that time the courts held that the church property belonged to the parishes, but, when the Congregational church was disestablished in the commonwealth, the Unitarians seem to have entered into full possession of the property.[42]

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[40] One of the deacons had died and Deacon Fales had seceded. It was reported that Fales spent three thousand dollars of his own money to fight the case in the courts. See Worthington, History of Dedham, 112–113; Mann, Annals of Dedham, 41; Clark, Congregational Churches in Massachusetts, 245; Dedham Pulpit, 508 note; Ellis, Church and Parish in Massachusetts; 16 Mass., 146ff., 487ff.

[41] 16 Mass., 146ff.; 487ff.; Walker, History of Congregational Churches, 342–343; Worthington, History of Dedham, 114; Buck, Ecclesiastical Law, 52.

The fundamental difficulty in the matter was due to the constitution and the action of the courts under it. The article in the constitution was a compromise which was too indefinite to be readily understood or applied. To make matters worse, the courts clung to the "ancient usages of pious ancestors," when they should have based their decisions squarely on the constitution and the laws made under it. Had this been done from the time of the adoption of the constitution, the new regime would have been fully inaugurated and adapted before the Unitarian controversy arose. Religion suffered no less than respect for law and judicial decisions when a decision rendered by Unitarian judges seemed to go to the limit in favoring the Unitarian churches.

At the time Unitarians were generally willing to defend the action of the courts, but later writers were not fully convinced that the decision was just and equitable. Ellis wrote:

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[42] Clark, Congregational Churches in Massachusetts, 250–251; Walker, History of Congregational Churches, 343; Spirit of the Pilgrims, I, 113ff. See also, Spirit of the Pilgrims, 1829, 175–176, 328ff. In the court decision it was suggested that those people were wrong who thought religion would be promoted by giving the church members the power to elect the minister for the parish. Judge Stebbins of Maine suggested, by way of criticism, that those, too, were wrong who thought religion would be promoted by giving the voters in the parish the power to elect the minister. He suggested that they might elect a minister who did not even claim to be a Christian.

> "For ourselves we do not accord with much of the incidental argument used on our side of the controversy, and we regret the unchristian, the unfraternal spirit of the strife. We would not undertake to defend all those views of Scripture, not all those assertions or negations of doctrine, advanced even by some leading Unitarians. We do not feel perfectly satisfied with the legal decisions in two cases bearing upon the ownership of church property, though we admit that the issue raised was quite a perplexing one."[43]

Professor Fenn says the decision

> "does not seem equitable, particularly in view of the practice which had prevailed here in New England, both before and after the adoption of the Constitution."[44]

As long as the process of division of parishes between the Unitarians and the Trinitarians was going on, the Unitarians gained by the decision. They were more liberal in theology and therefore less likely to be driven away from the parish churches by heresy or unorthodoxy. By remaining with the parishes they gained control, and later possession of, the church property. But as soon as the Unitarians were themselves established in a parish it was inconvenient to have a precedent which seemed to make it impossible for pious church members to bequeath a part of their estate to the church. Any bequest, according to the decision, would belong to the parish and not to the church alone. It still remains to be shown that the Convention of 1780 intended to make it impossible for the church as a corporation to receive and hold property.[45]

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[43] Ellis, Half-Century of the Unitarian Controversy, 31ff.; see also his, Church and Parish in Massachusetts, 33. Ellis says the Dedham decision "was believed by very many sincere and earnest persons to be a grevious trespass upon vested rights sanctioned by usage, allowance, and law in the churches."

[44] Platner, Religious History of New England, 111.

The decision and its results were most unfortunate for the Unitarians. It aroused animosity against their church and everything for which it was supposed to stand. It made reconciliation between Unitarians and Trinitarians impossible. It called the attention of many Trinitarians to the fact that the Unitarians were monopolizing political offices. Were they using their political influence for sectarian advantage? It might be difficult to establish that fact; it is sufficient for my purpose to show that the Trinitarians were convinced that they did.[46]

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[45] In the Convention of 1820 the "vested rights" argument was frequently heard. If some member would have suggested that Harvard University was a state university and should have a corporation named by the legislature, the same people who defended the Dedham decision (as well as those who made it), would have marked him as a dangerous radical.

[46] Autobiography of Lyman Beecher, II, 110. Mrs. H. B. Stowe writes, "When Dr. Beecher came to Boston (in 1825), Calvinism was the despised and persecuted form of faith. It was the dethroned royal family wandering like a permitted mendicant in the city where once it had held court, and Unitarianism reigned in its stead.

"All the literary men of Massachusetts were Unitarian. All the trustees and professors of Harvard College were Unitarians. All the élite of wealth and fashion crowded Unitarian churches. The judges on the bench were Unitarian, giving decisions by which the peculiar features of church organization, so carefully ordained by the Pilgrim fathers, had been nullified. The Church, as consisting, according to their belief in regenerate people, had been ignored, and all the power had passed into the hands of the congregation. This power had been used by the majorities to settle ministers of the fashionable and reigning type in many towns in Eastern Massachusetts. The dominant majority entered at once into possession of churches and church property, leaving the orthodox minority to go out into school-houses or town halls, and build their churches as

When the church was disestablished in Massachusetts by constitutional amendment and appropriate legislation, the Congregationalists (Trinitarians) kept the church property that was still in their possession. They were not inconsistent in doing so, for they had always maintained that the church property belonged to the church members and not to the whole parish. On the other hand, the Unitarians also kept what church property had come into their possession. Since a part of the property was obtained through court decisions based on the assumption that the church property belonged to the town or parish and not to the church members, it seems the Unitarians must have changed their position. If the property belonged to the towns and parishes in 1820, how did it become Unitarian property in 1834? That question has never been satisfactorily answered. The fact that the Unitarians profited by changing their position makes it no easier to explain their action.

When the nineteenth century opened, the Congregational church in Massachusetts was threatened by a division on theological lines. The "Old Calvinists," who were growing more liberal in theology, were opposed by the "Consistent Calvinists" or Hopkinsians, who accepted the Edwardean theology in its full rigor. While these two factions were align-

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best they could. Old foundations, established by the Pilgrim fathers for the perpetuation and teaching of their own views in theology, were seized upon and appropriated to the support of opposing views. A fund given for preaching an annual lecture on the Trinity was employed for preaching an annual attack upon it, and the Hollis professorship of divinity at Cambridge was employed for the furnishing of a class of ministers whose sole distinctive idea was declared warfare with the ideas and intentions of the donor." See also Story, Life of Story, II, 125–128, on the Hollis Professorship argument.

ing themselves for the fight to control the church, the Unitarians acquired the control of the corporation of Harvard University. Since the "Old Calvinists" had been in control of the university, it was they who suffered the defeat at Harvard. Both the "Old Calvinists" and the "Consistent Calvinists" had been planning for more definite theological training for their religious teachers. The capture of Harvard by the Unitarians furnished the occasion for a compromise between the two factions. In the compromise the "Old Calvinists" gave up more than the "Consistent Calvinists." This was probably due in part to the fact that they had suffered the defeat at Harvard. The two factions of Calvinists founded the seminary at Andover, which became the center of the opposition to the Unitarian theology of Harvard. The conflict between Unitarians and Calvinists also manifested itself in the several parishes, especially in the eastern part of the commonwealth. The Unitarians generally found more favor with the voters who were not church members. According to the constitution the religious teacher of a parish might be chosen by the church members or by the voters of the parish. In case of disagreement the courts decided that the voters of the parish had the final authority in the matter. When parishes chose Unitarian ministers the Trinitarians generally found it intolerable to remain with the church of the parish. They withdrew rather than support the Unitarian church. This raised the question of the ownership of church property. The Trinitarians, who thought the church property belonged to the church members collectively, assumed that the majority of the church members would get the legal title to the church property. The courts, however, assumed that the property was held by the church for the parish. The control of the property, therefore, was given by the courts to the church members who remained with the parish, whether they were a majority or not. The result of the application of the court's theory was never accepted as just and equitable by the Trinitarians. It was an important factor in driving the two factions of Congregationalism further apart. By 1820 the prejudice between the two factions was as great, if not greater, than the prejudice between Congregationalists and members of the dissenting denominations. In 1834, when the church was finally disestablished, the Trinitarian theory of the ownership of church property seems to have been accepted by both Unitarians and Trinitarians. Each of the two denominations kept the church property which was in its possession when the disestablishment was effected.

CHAPTER VII

CHURCH AND STATE RELATIONS AS AN ISSUE IN THE CONSTITUTIONAL CONVENTION OF 1820–1821

In 1820, the year in which the supreme court of the commonwealth rendered the Dedham decision, a convention was called to revise the constitution. Although for a long time there had been a strong undercurrent of feeling in favor of a convention, the Federalists had until then successfully postponed action.[1] Meanwhile, the question of the separation of Maine from the commonwealth had become acute. Since the people of Maine were more democratic than those of Massachusetts proper, the Federalist politicians were no longer opposed to the separation, because they thought it would insure for them in Massachusetts "a snug little Federalist State for the rest of their lives."[2] In order to effect the separation they were willing to risk a constitutional convention. As we shall see, it was too late to stem the tide against Federalism, even in Massachusetts.

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[1] Quincy, Life of Quincy, 373–374; Barry, III, 422–423; Bradford, History of Massachusetts, III, 244–245, 261–262; Amory, Life of Sullivan, II, 212; Morison, History of the Constitution of Massachusetts, 28; Journal of the Convention, 22, 622; Independent Chronicle, June 7, 10, 14, 1820.

[2] Quincy, Life of Quincy, 373ff.; Morison, H. G. Otis, II, 234; Bradford, History of Massachusetts, III, 262; Smith, History of Pittsfield, II, 306; Journal of the Convention, 622. Although Bradford says, "It was by the vote of a majority of the citizens in the State that a Convention was holden," not one-fourth of the qualified voters expressed themselves on the question and of the eighteen thousand who did vote over six thousand were opposed to the calling of the convention.

The convention held its sessions in Boston during the winter of 1820 and 1821. Among the delegates were many of the prominent men of the commonwealth—John Adams, Daniel Webster, General Dearborn, Governor Lincoln, Joseph Varnum, and Justices Story, Shaw, and Parker. John Adams was chosen chairman but declined the honor; whereupon Judge Parker, who had rendered the Dedham decision, was elected by a very narrow majority. Judge Story, who had been ostracized by the Federalists for his support of Jefferson, received the next highest number of votes.[3] But Story could not have been classed as a radical in 1820. Almost immediately after the convention was over, he wrote to Jeremiah Mason as follows:

> "I firmly believe that those who ultimately prevailed in the Convention, were always a minority in number, but with a vast preponderance of talent and virtue and principle. It was no small thing to prevent sad mischiefs to the Constitution. The struggle on our part was not for victory, but for the preservation of our best institutions. We were for the most part on the defensive; and it is no small source of congratulation to us that we have repelled the most popular attacks. The amendments proposed, I think, on the whole, good. At least they were the best we could obtain, and in some respects we were

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[3] Journal of the Convention, 13; Morison, History of the Constitution of Massachusetts, 28–31; Story, Life of Story, I, 86–87. The total number of delegates elected was four hundred and ninety, but five did not take their seats. Parker received one hundred and ninety-five of the three hundred and eighty-eight votes cast. Story received one hundred and thirty. It was suggested that the election of Parker was an endorsement of the Dedham decision, but he had less than half of the total number of elected delegates.

> triumphant, as to the judiciary and Harvard College in particular."[4]

This letter gives evidence not only of Story's attitude toward the democratic spirit of the time but also of the feeling of the conservatives in the convention. One of them said on the first day of the convention "that the Constitution should be approached with reverence, and that we should proceed with great caution."[5] If the Federalists could have brought about the separation of Maine without a convention they would no doubt have done so.[6] They did not trust the common man.

In the report of the debates it is evident that no other issues were more contested, both in the committees and on the floor of the convention, than those which affected the church and state relations. No other part of the constitution was so thoroughly discussed as the Third Article of the Declaration of Rights. The defenders of the *status quo* were constantly on their guard against radical proposals, which they seem to have anticipated. They argued that the light vote on the question of holding a convention was evidence that the people wanted no radical changes. They also maintained that "sacred vested rights" ought not to be interfered with by the convention. These arguments were generally quite effective.[7]

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[4] Story, I, 394–396.

[5] Morison, History of the Constitution of Mass., 30.

[6] Independent Chronicle, June 10, 14, 17, 1820.

[7] Journal of the Convention, 22, 23, 24, 28, 30, 32, 72–73, 384–385, 418, 424, 431, 456, 562, 622. The idea was expressed that the people thought the constitution "to be perfect already, and that it should be approached reverently, touched with a trembling hand." In the address to the people which was sent out with the amendments that were proposed it was pointed out that since only one-fourth of the

Again and again the proponents of liberty of conscience clashed with the defenders of the establishment. The Baptists, Methodists, and Universalists consistently opposed the establishment against the Unitarians and Trinitarians, who themselves were no longer unanimously in favor of it.[8]

The attacks of the dissenters were concentrated upon those articles of the constitution which provided for the corporation of Harvard University, the test oath for office holders, and the religious establishment.

The first evidence of an alignment on a religious issue arose over the articles in the constitution of 1780 which provided for the corporation of Harvard University. The institution had been severely criticised by those who felt that it was too exclusive to be entitled to state support to the extent of ten thousand dollars a year. It was also criticised for the narrowness of its curriculum.[9] Even the Trinitarians no

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qualified voters expressed themselves on the question whether they favored holding a convention it was inferred that no fundamental changes were desired.

[8] Morison, History of the Constitution of Massachusetts, 30; Journal, 346, 347, 349, 353, 355, 357, 360, 365, 558; Christian Examiner, IX, 8. In 1820 the religious societies in the commonwealth were divided approximately as follows: Congregationalist, 373; Baptist, 153; Methodist, 67; Friends, 39; Episcopalian, 22; Universalist, 21; others, 23.

[9] Independent Chronicle, 1820–1821. This newspaper ran a series of articles in which Harvard was very severely criticised. The students came from eastern Massachusetts almost exclusively and it was contended that since the institution does not serve the whole state its allowance should be reduced or cut off. See also, Manning, Key of Libberty, 20–21, 27–28, 35–37. This Jeffersonian, writing in 1798, was convinced that "the few" wanted costly colleges but opposed "cheep schools & woman schools" for the masses. He also felt that there was a monopoly in the teaching profession. This liberal outlined a free school system, through the college, open to all.

longer supported it. A committee, headed by Josiah Quincy, an out and out defender of the *status quo* at Harvard, reported to the convention that it was "inexpedient to make any alteration or amendment" to that part of the constitution. According to the existing constitution and the laws made under it, the board of overseers was composed of approximately seventy persons, the majority of whom were on the board by virtue of the political offices which they held. To insure continuity and permanency it had been provided that thirty Congregationalists—fifteen ministers and fifteen laymen—should be appointed by the board itself as vacancies occurred. Once having gained control of the board, this *bloc* could maintain itself in control in spite of the vicissitudes of party politics. At the time when the convention was in session practically all of the Congregationalists on the board were Unitarians—a fact of which Quincy no doubt was aware when he made the report. For that reason many Trinitarians as well as dissenters opposed the composition of the board.[10]

Quincy, in true political manner, tried to show that, since the charter had not been changed in its essentials since 1642, the institution had "sacred preexisting" rights with which the convention could not interfere. If any changes were to be made, he maintained, they must first be sanctioned by the judiciary and consented to by the board.[11] Both the judiciary and the board were dominated by Unitarians, so Quincy was not running a great risk. His argument seemed plausible until one delegate pointed out that the institution was being supported by the commonwealth, and another questioned the statement that the charter had not been changed since 1642.[12] Quincy was compelled to admit that the original charter did not mention Congregational ministers, but provided that the ecclesiastical members of the board should be "teaching elders of six adjoining towns." This, he explained, had always been interpreted to mean Congregational ministers. The Reverend James Freeman supported Quincy's argument and emphasized the point that Brown University was for the "particular religion" of the Baptists, just as Harvard was for the Congregationalists. He also made a pretence of disinterestedness by stating that he was not a Congregationalist—a very thin veil indeed, for he was a Unitarian, and it was the Unitarians that were dominating Harvard at that time. The Reverend Mr. Baldwin, a Baptist delegate, demonstrated that Freeman's argument was misleading, by stating the facts regarding the corporation of Brown University.[13]

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[10] Journal, 66–71; History of Hingham, I, (ii) 32. The Congregational minister of Hingham wanted no "invidious distinctions between denominations" on the board of overseers. He thought the Congregational church was like a spoiled child because of special favors.

[11] Journal, 72–73, 78–79.

The "sacred vested rights" argument apparently caught the opposition unprepared at the time, but, when the issue was raised again, one delegate made a motion that threw consternation into the camp of the defenders. He admitted that the convention had no right to interfere with the "sacred rights" of the institution, but from his admission he drew a surprising conclusion. He moved to expunge from the constitution all the articles that provided for the corporation of Harvard University. This motion, if passed, would have left the institution without a board of control, and yet, who could deny that the convention had a right to change the constitution as he had suggested? Webster and Dana came to the defense with a new argument, that since the convention was not called to make a new constitution (a mere inference) such a motion was premature. After a discussion of the rules of order, the committee arose without settling the issue. The defenders of Harvard lost in this encounter, but the issue was still to be settled.[14] When it came up again, Dana suggested that he hoped the question of the power of the convention to deal with it would not be raised. With this expression the "sacred vested rights" argument passed into oblivion.[15]

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[12] Journal, 73–77.

[13] Journal, 73–77. According to Baldwin's statement the corporation of Brown University was composed of twenty-two Baptists, five Episcopalians, five Quakers, and four Congregationalists. The Unitarians showed no such liberality to the other denominations in Massachusetts. In fact they probably removed at least one minister from the corporation because he was a Trinitarian Congregationalist. For the exact phraseology of the charter of Brown University on the point see Mode, Source Book of American Church History, 289.

The next scheme to which the defense resorted was the naming of a committee to investigate the institution and report back to the convention. The one virtue of this plan was postponement! Webster was named chairman of the committee. After it had made an elaborate report, he introduced a motion to admit the ministers of every denomination of Christians to the board of overseers. One of the members of the convention was "happy to hear" that the gentlemen who had argued that the charter could not be changed by the convention were now willing to change it. Webster covered the seeming retreat by admitting that the convention could make changes in the charter with the consent of the overseers. In the discussion it was stated that Andover Theological Seminary was an institution of another sect, a fact which was not directly to the point, because Andover was not supported by public funds and was not mentioned in the constitution. It was significant, however, that the Trinitarians were openly recognized as a different sect.

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[14] Journal, 77–87.

[15] Journal, 491–493, 527–544, 619.

The conclusion of the discussion was a hollow victory for those who wanted definite changes in the corporation. An amendment was submitted which would have admitted the ministers of every denomination of Christians to the board of overseers, but it was defeated by the voters. Even if it had been passed, the Unitarians would no doubt have maintained their control of the institution for several decades.[16]

There was another clash over a phase of the establishment when the test oath for office holders came up for discussion. Webster defended the theory that the people had a right to require the oath as provided in the constitution of 1780. One delegate read a speech opposing any form of oath of a religious nature on the ground that, like the inquisition, faggots, and similar means, it was ineffective. He cited instances of other states that had abolished the test oath. The Reverend Joseph Tuckerman, Unitarian minister of Chelsea, made a valiant fight to have the oath retained. One defender of the oath actually boasted that no people enjoyed greater toleration than those in Massachusetts, a statement which his defense of the oath denied, for there were states that had no such tests. An amendment was submitted which provided for the abolition of the oath.[17]

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[16] Journal, 527–544, 619; Diary of William Bentley, IV, 44, 45, 67, 68, 348; Story, I, 419–420; Independent Chronicle, Jan. 6, 9, 27, Feb. 2, 10, Mar. 17, 30, and June 6, 1821. The Report of the committee is given in the Journal, 527–532. Bentley, Story, and the writer in the Independent Chronicle give evidence of the political and social complexion of Harvard University. The Independent Chronicle suggested that there was "sufficient independence in the Commonwealth to deliver it (Harvard University) from the withering oversight of a sectarian aristocracy."

The contest over the test oath and the corporation of Harvard University were minor skirmishes when compared with the battle over the Third Article of the Declaration of Rights. When the Reverend William Bentley had written, in 1808, that parish support for religious instruction was the one thing upon which Congregationalists (referring to Unitarian and Trinitarian Congregationalists) still agreed, he anticipated the alignment in the convention. In spite of the Dedham decision, which had created intense feeling between Unitarians and Trinitarians, they stood almost as a unit against any breaking down of the parish system. The former were undoubtedly the more ardent defenders of it. Since Boston never had parish lines, one is surprised to find the Boston delegates maintaining that the abolition of parish lines would lead to great calamity. Nor does it seem consistent for a Unitarian to argue for a system of church support, which, in the mind of a Pittsfield delegate, would have required a whole army to enforce upon an unwilling people. Apparently his experience as a Congregationalist in Pittsfield had taught him a lesson which the "heralds of a liberal faith" had yet to learn. At all events, his arguments based on actual conditions in Massachusetts seem more effective than those of the Unitarian minister who based his on the experience of the Romans and Constantine![18]

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[17] Journal, 126–127, 160–175, 196–198, 205, 329–330, 402–403, 408, 620. Tuckerman introduced resolution after resolution for the retention of the religious test for office. On the other hand Baldwin, the Baptist minister of Boston, argued against special privileges for Quakers in respect to test oaths. He wanted all people to be equally free from the oath.

The committee which reported on the Third Article resorted to the same tactics that Quincy's committee had used in the defense of the corporation of Harvard University. It reported that it was inexpedient to make any change, except to provide for the legal recognition of unincorporated religious societies and Catholics. As a counter proposal, Mr. Childs of Pittsfield introduced a plan whereby every religious society was to be empowered to raise the money it needed for religious instruction, and no sect was to be subordinated to any other. This was a definite proposal for placing all denominations on the same plane. It brought the issue squarely before the convention. As stated by Chief Justice Parker, the problem was how to obtain the funds needed for religious instruction without interfering with the rights of conscience. Would the people of Massachusetts support religious instruction without being coerced? One group insisted on the liberty of the individual, while the other insisted on proper support for religious instruction. The delegates who belonged to one or another of the dissenting denominations pointed to their own experience as evidence that voluntary support was all that was needed. The defenders of the establishment, however, were unwilling to admit that the dissenters made adequate provision for religious instruction; nor would they admit that injustice had resulted from the constitution. Hence they saw no good reason for making any amendments.[19]

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[18] Journal, 357–362; Smith, History of Pittsfield, II, ch. xiv.

Those who opposed an established church produced evidence of what they considered injustice due to the existing system. Judge Varnum told how one dissenting minister found it necessary to spend one hundred dollars in four years of litigation to obtain four dollars to which he was legally entitled. Justice Story asserted that after 1804 the courts denied recognition to ministers of unincorporated societies although these had been generally recognized from 1780 to 1804. He practically challenged the court decisions and defended the Religious Freedom Act of 1811, which recognized such ministers. The dissenters demanded that the substance of the law be written into the constitution. The defenders of the establishment probably intended to repeal the law after Maine had been separated from the commonwealth. At all events, they strenuously opposed having it made a part of the constitution.[20]

When compromise seemed to be the only possible solution, Webster introduced an amendment which would have given Congregationalists the privilege, already enjoyed by the dissenters, of choosing the religious society whose instruction they wished to attend and support. The obvious purpose of the plan was to make it possible for Trinitarians to avoid paying for the support of a Unitarian minister, and *vice versa.* This would have been a reasonable compromise but for the fact that it probably would have made it impossible to maintain the establishment.[21] The committee of the whole divided 196 to 196 on it, so it was declared lost.[22] Childs's amendment for disestablishment was then brought to a vote and was defeated 136 to 246.[23] Story and Varnum again made pleas for the act of 1811 to be written into the constitution. Varnum twitted the delegates from Salem, Newburyport, and Boston, who enjoyed the voluntary system themselves, for voting against a proposal which would have given less liberty to the people in the other towns. A delegate from Sutton resented the implication that the larger eastern cities had better people than the western towns. If the eastern cities had supported religious instruction on a voluntary plan he insisted that the people in the smaller towns would do likewise. From his own experience he told how the Congregational church in his town was flourishing under a voluntary system, whereas it had declined under the compulsory tax system.[24]

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[19] Journal, 365, 394, 420, 447. Mr. Tuckerman said, "In the pure state in which we enjoy it (religion) it does not admit of being perverted to any such purpose." He had probably never heard of Pharisees! Another delegate said, "it is well known that there are religious teachers in almost all parts of our State who do not ask much for preaching." Such ministers he classed as undesirable.

[20] Journal, 355–356, 366–368, 371, 375, 422–423, 428–430, 449, 562–564, 581, 585, 587; Morison, History of the Constitution, 31; Story, Life of Story, I, 394. Story was the most prominent Unitarian who opposed an established church. He showed the courage of his convictions in his lone stand in the Unitarian Association meetings.

Hoar, who was a delegate for Concord, suggested a general tax for the support of religious instruction in all the denominations. Just how such a tax would have been made acceptable to Quakers and Baptists was not brought out in the discussion because there was no possibility of the plan being adopted. He also maintained that a contract between a parish and a minister binds all the members of the parish. Varnum pointed out that the general tax for religion would cause a "scramble" among the denominations. Story attacked the contract argument on the ground that Hoar's statement had not been in accordance with the facts in Massachusetts for a century. The dissenters had long been enjoying the privilege to avoid the taxes for Congregational worship. Story wanted that privilege extended to include Congregationalists. If Unitarians were different enough from Trinitarians to form a separate organization, they should no longer be compelled to pay toward the support of Trinitarian teachers of religion, and *vice versa.* Hoar objected to Story's reasoning because he thought a recognition of the fact that Unitarians and Trinitarians were different denominations would have meant the end of the establishment. Neither the Unitarians nor the Trinitarians would have been able to muster a majority of the voters in the commonwealth. Story, on the other hand, maintained that it was necessary to recognize the fact that Unitarians and Trinitarians were two different denominations in order to retain the establishment. He contended that Trinitarians and Unitarians would leave the Congregational church and join some other denomination if no provision were made for them to remain in the established church without paying for each other's religious teachers. He could have pointed to the "Separates" who joined the Baptists to avoid the taxes during the eighteenth century as an example of what might be expected to happen. But either solution for the problem would have weakened the establishment. One would probably have driven large numbers of Congregationalists into the dissenting denominations: the other, by recognizing a distinction between Unitarians and Trinitarians, would have left the commonwealth without a denomination that could muster a majority of the voters. In the latter case the dissenters would probably have formed a bloc to bring about disestablishment.[25]

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[21] Journal, 347, 426, 444, 577–579.

[22] Journal, 444–445. The chairman ruled Webster's amendment out of order but upon appeal he was over-ruled. The vote was 196 to 195 until the chairman cast his vote against it.

[23] Journal, 558–560. In the committee of the whole the vote was 161 to 221. See Smith, Religious Education in Mass., 78. For Childs's amendment see below, Appendix B.

[24] Journal, 561ff., 576–586.

The first of the proposed amendments submitted to the people contained the following provisions: (a) the religious provisions of the Third Article were no longer to be "confined to Protestant teachers"; (b) unincorporated religious societies were to be recognized as well as incorporated ones; (c) all money paid by a subject for the support of religious worship was to be applied toward the support of the public worship upon which he attended; (d) money paid by non-resident proprietors who lived outside of the commonwealth was to be applied toward the support of worship in the "town, precinct or parish, by which such taxes were assessed"; (e) attendance at public worship was no longer to be compulsory; (f) except in cases for which express provision was made, persons were no longer to be tried for major crimes except upon presentment or indictment by a grand jury; (g) a person charged with a crime was to be given the privilege to "be fully heard in his defence by himself and his counsel" instead of by himself or his counsel.[26]

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[25] Journal, 561ff., 576–586; Concord Church Records, 248ff. As late as 1826 Hoar still opposed the separation of Trinitarians from the Unitarian parish in Concord.

This conglomerate amendment as proposed by the convention was defeated by a vote of 19,547 to 11,065. Some writers have interpreted the vote to mean that the proposed amendment was too radical. One even goes so far as to suggest that the people "virtually declared their disapprobation of the law of 1811."[27] Such an interpretation seems to be contrary to other evidence. The proposed amendment was not as radical as Childs's resolution, which had been defeated in the convention. The delegation from Bristol county had favored the resolution two to one, but the people of that county voted against the proposed amendment by the overwhelming vote of more than seventeen to one.[28] That county had long been noted for its liberalism in religious affairs; it had many Baptists and Quakers, who were opposed to an established church; it gave the largest majority, in proportion to its total vote, against the proposed amendment. It needs to be proved that Bristol county opposed the law of 1811. Moreover, the statistics in some of the other counties support the conclusion that the amendment was not defeated because it was too radical.[29] Why then was it defeated? Probably the best explanation is that it pleased neither the dissenters nor those who favored an established church. On the floor of the convention the Baptists insisted that what they wanted was exemption from the taxes, and not the right to tax and then "scramble" for their share of the money. They had experienced difficulties, in former times, in getting their share of the money from the treasurer of the town.[30] A Baptist minister who was a member of the convention pointed out that it "was contrary to the tenets of the Baptists, to levy compulsory taxes, . . ." for the support of worship.[31] On the other hand, some of the conservatives were opposed to any changes lest it result in the decay of the "temples of worship."[32]

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[26] Journal, 613–614. See Appendix C below, for the amendment. The part of the address to the people from the convention which referred to the amendment is given in Appendix D. It is an interpretation of the proposed amendment.

[27] Bradford, History of Massachusetts, III, 263; Morison, History of the Constitution of Massachusetts, 33.

[28] The exact figures on the proposed amendment for Bristol county are given in the Journal as 2015 against and 115 for it. See Journal, 633.

[29] Journal 559–560, 633. The vote of the delegates in the convention on Childs's resolution and the vote of the people on the proposed amendment is shown for several counties in the following table:

One other fact needs to be considered. Why did the convention insert the provisions for jury trial and the rights of defendants in criminal cases in the proposed amendment? These provisions were not directly related to the establishment and should have

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County	Childs's Resolution		Proposed Amendment	
	for	against	for	against
Plymouth	10	17	597	1645
Suffolk	5	37	1786	908
Berkshire	17	9	667	1659
Essex	19	33	1429	2138
Barnstable	3	8	321	160

Berkshire county voted for the radical Childs's resolution, but against the proposed amendment. Suffolk voted against the resolution and for the proposed amendment. See also Independent Chronicle, March 24, 1821.

[30] See above, page 176.

[31] Journal, 583. One delegate in the convention opposed the proposed amendment but said he wanted the Third Article expunged. It is clear that he was more radical than those who favored the proposed amendment.

[32] Morison, History of the Constitution of Massachusetts, 33. Leverett Saltonstall of Salem thought voluntary support for public worship was a "fearful experiment" which would result in the decay of the "temples of worship." In his mind "Corporate rights and privileges" were "sacred things."

been separated from an amendment on that subject. Were they added to the proposed amendment to gain votes for it or to defeat it? My conclusion is that the "stand-patters" in the convention saw to it that the amendment would be defeated. In that way they thought to prevent "mischiefs to the Constitution."[33]

Only one of the three proposed amendments which would have affected church and state relations was adopted. The first, as has been pointed out, was defeated by a vote of 19,547 to 11,065. The tenth, which provided for the reorganization of the board of overseers of Harvard University, was defeated by a vote of 20,123 to 8,020. The twelfth, which provided for the repeal of the test oath, passed by the narrow margin of 13,782 to 12,480. The actual immediate results, therefore, from the viewpoint of ecclesiastical affairs, were meager. On the other hand, the convention did succeed in arousing interest in the church and state relations as a political problem. It also added to the experience of the opponents of an establishment. Finally, the constitution was amended so as to make it possible to add later amendments without calling a convention. In that way it opened the way for the amendment of 1833 which provided for disestablishment.

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[33] See above, page 185.

CHAPTER VIII

THE FINAL ATTACK ON THE ESTABLISHMENT AND THE AMENDMENT OF 1833

The Congregationalist-Federalist coalition might well have congratulated itself on its success in the Convention of 1820 and on the vote on the proposed amendments. In spite of the growing opposition, the establishment was retained and the "snug little Federalist State" seemed assured. The Unitarian preacher who delivered the election sermon in 1821 stressed two reasons for "public joy and gratulation." The first of these was

> "the reëlection of those distinguished citizens to the first offices in the government, whose faithful services, in high stations and important trusts, the public had (has) enjoyed for so many years."

The other was the evidence that the people generally were satisfied with the constitution. In his mind the results were

> "the most gratifying, the most encouraging, and the most honorable, that could have been anticipated."

On the other hand, he warned his brethren in office to be vigilant in making provision for education and religion. He admitted that

> "a change in the character of the administration would be followed by a correspondent change in the constitution under which they act, and in all those institutions, upon which the public order, the prevailing morals, and the prosperity chiefly depend. . . ."

As Hollis Professor of Divinity in the Harvard Divinity School and as a preacher in the established church, he was doubly interested in the maintenance of the *status quo*.[1]

Since the Federalists were assured of a majority in politics only as long as their coalition with the Congregationalists remained intact, the strategy of the Republicans was to divide and conquer. The controversy between the Unitarians and Trinitarians played into their hands. After 1820 the Trinitarians in the eastern part of the commonwealth became increasingly friendly with the dissenters and more prejudiced against the Unitarians. Theologically the Unitarians were marked as heretics by all the other denominations, with the possible exception of the Universalists. The Unitarians resented the combination against them — a combination that was due mainly to their own action, which was considered high-handed by their opponents. In other words, the Unitarians seem to have convinced their opponents that they lacked the discipline necessary to become the political and religious leaders of the commonwealth.[2]

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[1] Election Sermon, 1821. The sermon was preached by the Reverend Henry Ware. For criticism of Harvard University see the Independent Chronicle for 1820, and 1821, and Life, Letters, and Journals of George Ticknor, I, ch. xviii. The Independent Chronicle found fault with the snobbishness of the institution. But it also demanded more emphasis on modern languages. Ticknor also seems to have felt that the modern languages needed more emphasis. He wrote, "All now is too much in the nature of a show, and abounds too much in false pretences. . . . It is seen that we are neither an University—which we call ourselves—nor a respectable high school,—which we ought to be,—and that with "Christo et Ecclesiae" for our motto, the morals of great numbers of the young men who come to us are corrupted."

[2] Independent Chronicle, Feb. 21, and March 31, 1821; Christian Examiner, IX, 5; Christian Watchman, Feb. 5, 1825; March 2, 16,

Although both factions of Congregationalism were generally in favor of a tax supported church in 1820, the Unitarians were more actively interested in its defense. Their organ printed a long article on the subject in 1821. In it there appeared the ridiculous statement that there would be no religious instruction without state support. At that time no other state in the Union had an established church. Did the statement mean to imply that the other states had no religious instruction or that the people in Massachusetts were less willing to support it voluntarily? It was not necessary to go outside of Massachusetts to see religious instruction supported without state aid. The Congregationalists themselves had voluntary support for religion in several towns. Boston never had a state supported church. Another argument in the article was that men who are coerced to pay for the support of worship will thereby be induced to attend in order to obtain "their money's worth." The contention that the "habitual feeling" that the tax must be paid produces "a ready acquiescence in it" was denied by the facts in the history of the commonwealth. The author denied that the rights of conscience could be interfered with, under the constitution; yet he advised the opponents of the establishment to gain a majority, after which they could dominate in religious affairs. He gave us a measure of his faith in humanity when he wrote:

> "Where are we to look for the motives, which are to induce those voluntary contributions, which are to be substituted for the requisitions of the law."[3]

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and 30, 1827; April 6, 1827; Feb. 1, 8, and 15, 1828; Spirit of the Pilgrims, 1830, 642; Punchard, History of Congregationalism, V, 649–650.

[3] Christian Disciple, 1821, 27ff.; Christian Examiner, 1832, 348.

Although there were some Unitarians who opposed the establishment, their organ still defended the religious taxes in 1830.[4]

In 1823 the Federalist party signed its death warrant by nominating Harrison Gray Otis for governor. He had never been popular, and his participation in the Hartford Convention, which was made an issue in the campaign, was too great a handicap. The fact that he was supported by the Unitarians and the friends of Harvard University was a liability rather than an asset in the campaign. With his defeat the party went out of existence. The Republicans hailed the victory as the overthrow of a domineering aristocracy. They pointed to the fact that certain "eminent divines" had been against them.[5]

The Trinitarians rejoiced with the dissenters over the defeat of the Federalists. The Dedham decision had revealed to them the dangers of an establishment manipulated by politicians. The Reverend Lyman Beecher wrote from Boston, on April 16, 1823, as follows:

> "The numerical, and political, and secular influence of the evangelical population is becoming powerful in this city, compelling Unitarian ambition to show less contempt and more courtesy to the orthodox.

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[4] Christian Examiner, 1830, 1–20; 1832, 348; Reports of the American Unitarian Association, 1826, 26; 1827, 6, 19, 24–30; 1828, 5, 42; 1829, 7; 1830, 31–34. The Examiner of 1832 emphasizes the fact that Trinitarians and Unitarians were much farther apart than they had been a decade before. The editors sensed the change that was coming. They acquiesced in the movement for disestablishment, but thought there was as much reason for opposing public schools as for opposing an established church.

[5] Morison, H. G. Otis, II, 241–245; Centinel, May 31, 1823; Independent Chronicle, May 31, 1823; Massachusetts Resolves, 1823, 635. Eustis, the successful candidate, referred in his first message, to the disloyalty of the commonwealth in the War of 1812.

> "The late election has broken, and will, in its consequences, break forever their power as a Unitarian political party to proselyte, and annoy, and defend by perverted legislative and judicial influence. This, at least, is the opinion here. They feel their downfall."[6]

In 1828 the Reverend Parsons Cooke of East Ware preached a sermon on "Unitarianism as an Exclusive System; or the Bondage of the Churches that were planted by the Puritans." The burden of his message was that Unitarians were using political office to gain sectarian advantages. The sermon was timed to come just before the election. It was a bid for the voters to turn out the Unitarians.[7]

The reply to that part of the sermon which referred to the Dedham decision came from an unexpected quarter. Chief Justice Parker, who had rendered the decision, wrote it for the Unitarian organ. He called Cooke an "inexperienced subaltern" and blamed him for arousing the people to vote along religious lines. The chief justice no doubt had the right to vindicate the action of the court, if he chose to do so,[8] but to use the Unitarian organ for his vindication was to furnish one more evidence that religion and politics were not as far removed from each other in the highest court of the commonwealth as some might have wished. Nor was the language of the chief justice well chosen for one who should have been accustomed to judicial precision. "Why quarrel with a Court for deciding that some half dozen members of a large congregation shall not usurp dominion over the whole . . . . ?" was a rhetorical question that was not in accord with the facts in the Dedham case.[9] In his reply to the chief justice Cooke pointed out that

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[6] Autobiography of Lyman Beecher, I, 517–518.

[7] Punchard, History of Congregationalism, V, 661.

[8] Steiner, Life of Roger B. Taney, 206. Taney did not think it proper to defend court decisions in the newspapers.

> "Unitarians have vapored upon no point more largely than upon the rights of free discussion: and now, no sooner does 'an inexperienced subaltern' . . . open his mouth on a subject that they are unwilling to have broached, than he is told *ex cathedra* that it is time for him to quail."[10]

The discussion brought the relation of religion and politics into the limelight. From a political point of view, the Unitarians could ill afford the exposition. The Reverend Henry Ware wrote:

> "The Orthodox interest is full of energy; and an assault is making on us which it will not be easy to repel. Every voice and every arm is needed here."[11]

John Lowell, who was inclined to use caustic language in any disputation, blamed the orthodox party for planning

> "to awaken a war *ad internecionem*, a war of

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[9] Christian Examiner, V, 277ff.; Spirit of the Pilgrims, 1828, 120ff.; 1830, 503ff., 539ff. In the Dedham decision Judge Parker seems to have assumed that in the early history of Massachusetts practically all of the people in a town or parish were members of the church. The Trinitarians writers denied the assumption. Later Unitarian writers again made it the basis of arguments against the Trinitarian contentions. One Trinitarian writer claimed to have evidence to prove that in Salem less than one in ten of the population of the parish were church members. Present day authorities are quite generally agreed that Parker's assumption was wrong. Thus Parker's other assumption that property left to the church was practically left to all the residents in the parish was based upon an error.

[10] Spirit of the Pilgrims, 1828, 120ff.; Punchard, History of Congregationalism, V, 666–667.

[11] Ware, Memoir of the Life of Henry Ware, Jr., 196.

> extermination against all Christians, who do not belong to the dominant sect . . . . By this, we are to understand that there is a combination among the sects, to seize the civil power, and the use they may hereafter make of it, is to be sought in the calamitous history of Christendom for the last fifteen hundred years. No man is to be elected into any office of honor or trust, who is not a believer . . . It would be hypocritical in us to pretend that we feel any apprehension that these men of violence will succeed — we do not call them fanatics, because that term is exclusively applied to those who have lost their reason, ..."[12]

The language seems unnecessarily harsh for one to use against a faction which in his mind had no possibility of succeeding. It required no small amount of exaggeration to see a Spanish Inquisition in the efforts of a party to use its influence at the polls. The Unitarians always were in the minority. The indifference of the sects and the Trinitarians made it possible for them to obtain the political offices. Their use of those offices brought them into disfavor. They had themselves to blame. Their liberalism seems to have been limited to the field of theology — a field in which the masses were not especially interested. In other respects they were not ideal apostles of freedom.[13]

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[12] Christian Examiner, V, 298–300; Spirit of the Pilgrims, IV, 118.

[13] Platner, Religious History of New England, 112; Autobiography of Lyman Beecher, II, 77–78; Adams, New England in the Republic, 354ff. Theodore Parker said, "No sect had ever a finer opportunity than the Unitarians to advance the religious development of a people. But they let it slide, and now they must slide with it. . . They were aristocrats and exclusive in their tastes, not democrats and inclusive." George Ripley wrote in 1840, "Liberal churches began to fear liberality, and the most heretical sect in Christendom to bring

When the Unitarian Association met in 1828 the executive committee warned the members not to use "the carnal weapons of passion, and jealously, and falsehood, . . ." The inspiration for this warning probably came from the effects of the writings of Lowell and Parker. But it was too late to stem the tide that was rising against the Unitarian domination in politics.[14]

One very important cause for friction between Unitarians and Trinitarians was the attitude of the government of the commonwealth toward their respective institutions of learning. The Unitarians were blamed for the difficulties experienced by Andover and Amherst in obtaining charters. Even when the charter for Amherst was granted, the legislature reserved the right to fill the first five vacancies on the board of trustees.[15] The college authorities were never to apply religious tests for either professors or students. Although the friends of Williams College and Brown University also opposed the new institution, which they considered a rival, the opposition of the friends of Harvard was most resented. When Governor Eustis was taunted for having favored Amherst in order to win the votes of its friends, he

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the charge of being so against those who carried out its own principles." Channing's statement, "Other denominations had the name religious freedom; among Unitarians it was a reality," shows that even he was not always free from a self-righteous attitude. See Report of the American Unitarian Association for 1829. See also American Historical Review, XXIX, 272. The author says Democracy in Massachusetts was a protest "against 'aristocracy,' against the leaders in fashionable society, capitalists, religious 'liberals,' and political conservatives."

[14] Report of the American Unitarian Association, 1828, 12.

[15] Massachusetts Laws, 1825, LXXXIV, gives the act of incorporation for Amherst. The board was to be composed of seven clergymen and ten laymen. See also Sherman, Religious Education in Massachusetts, 134–139.

is said to have replied that he believed in the doctrine of election! Harvard had received ten thousand dollars each year from 1815 to 1825 from the commonwealth. When, in 1830, the Harvard Divinity School was reorganized as a part of the university, the opponents of Unitarianism felt it was unjust to be made to pay for the education of their own religious teachers and for another "battery at Cambridge which was used to bombard them."[16]

There can be no doubt that the Unitarians were in control of the Divinity School at Harvard. The members of the faculty traveled for the Unitarian Association during vacations; the school was called "another instrument of good" at the session of the Association; reports of the school were regularly made at the annual meetings. Justice Story was not in favor of using public or semi-public funds for the advantage of one denomination. He thought the school should have been supported by voluntary contributions. He pointed to Andover, which, though supported by voluntary contributions, had more men, more money, and more equipment than the Divinity School. He even tried to get Professor Moses Stuart of Andover to accept the professorship of philology and moral philosophy in the Divinity School. He hoped Stuart's "religious opinions would reconcile to the college many minds" that had been alienated. But his plan failed.[17] According to one authority, two hundred and thirteen ministers were educated in the Divinity School by 1846. Of the one hundred and ninety who were living at that time, all but four were Unitarians.[18]

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[16] Massachusetts Laws, 1824, ch. LXXX, gives the act of incorporation for the Wilbraham Wesleyan Academy; 1825 ch. LXXXIV gives the act of incorporation for Amherst. See also, Bush, History of Higher Education in Massachusetts, 256–258; Cooke, Remonstrance against Established Religion in Massachusetts, 1–16; Tyler, History of Amherst College, 137–138, 150–151, 658–660; Burgess, Pages in the Ecclesiastical History of New England, 101; Quincy, History of Harvard University, II, 373–374; Spirit of the Pilgrims, 1830, 645; Report of the American Unitarian Association, 1830, 31.

Since the founding of Harvard the Congregationalists had enjoyed the privilege of having their ministers educated there. The dissenters had long been opposed to the favoritism thus shown to one religious denomination, but the Congregationalists were in the majority. They could, at least, make the plea that they were doing what any other majority party would do. The Unitarians, however, enjoyed the privilege in spite of the fact that they were a minority. After the Trinitarians had Andover and Amherst they lost interest in Harvard. They blamed the Unitarians for making it more sectarian than Oxford and for saddling the Divinity School, which they alone were using, on the commonwealth. The withdrawal of the Trinitarians brought a crisis into the affairs of the institution. For two years the attendance at Harvard was actually less than that of Amherst. Critics blamed the Unitarians for ruining the oldest institution of learning in the commonwealth.[19] When, in 1826, the annual grant of ten thousand dollars from the legislature was cut off, retrenchment was made necessary, just when Amherst was growing rapidly. That retrenchment—a very unpopular procedure in itself—was accompanied by insinuations of irregularities in the financial management. Those insinuations, though deeply resented by many Unitarians, seem to have had at least a shadow of truth in them. Quincy admits that

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[17] Story, Life of Joseph Story, I, 419–420; II, 127–128; Reports of the American Unitarian Association, 1827, 9, 21; 1828, 41–44; 1829, 34; 1830, 28–36.

[18] Beard, Unitarianism Exhibited, 34.

[19] Tyler, History of Amherst College, 155–156, 162, and chapter xi; Independent Chronicle, Jan. 5, 8, and Feb. 21, 1820; Jan. 3, 6, 10, 27, Mar. 17, May 30, and June 6, 1821; Quarterly Register, XIII, 221; Cooke, A Remonstrance Against Established Religion in Massachusetts, 1–16; Unitarian Advocate, Nov. 1832, 233–234. Cooke said the Unitarians first begged for money for the Divinity School, but when they failed to get it they saddled the institution on the state by reorganizing it. The Unitarian Advocate points out that some Trin-

> "Some irregularities had occurred and some errors were rectified; . . . . . and whatever expenditure had been questionable in point of authority, had been evidently applied with an honest intent to advance the interest and promote the progress of the institution."[20]

It goes without saying that the university lost heavily in prestige. The Unitarians had driven away so much of its support that they had a white elephant on their hands.

By 1830 the prejudice between Unitarians and Trinitarians had driven both to the acceptance of the logic of the dissenters, at least in part. In that year an article appeared in the Unitarian organ with the following argument:

> "it is sometimes expected,......that Unitarians, even where they are the majority, will continue to support the preaching by which they are denounced, and religious institutions from which they are systematically debarred.

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itarians made "every exertion in every quarter and by every possible instrument, to injure the reputation and interests of the [Harvard] College."

[20] Quincy, History of Harvard University, II, 338ff. and chapter xxxiv; Spirit of the Pilgrims, 1830, 24–35; Life, Letters, and Journals of George Ticknor, I, chapter xviii.

> ....Certainly this is too much to expect from mortal men."[21]

A Trinitarian minister wrote in a similar vein:

> "My liberty is as really invaded when my money is taken to educate the Unitarian ministers, as when I am compelled to hear them preach."

He followed this argument with one for religious freedom.[22]

Before discussing the political development which led to the amendment for disestablishment, a brief mention should be made of the growth of the voluntary system of support for worship. In the Convention of 1820 it was stated that "Newburyport, Dorchester, and probably twenty other towns" had adopted the voluntary system.[23] In one instance a group left the regular Congregational church of the town because of a controversy over the building of a new meeting house. To avoid the taxes for the church of the town, the whole group joined the Baptist church.[24] In another case the new meeting house was paid out of the money received from the sale of the pews.[25] In 1818 the town of Berlin even voted to give the Quakers their share of the school money. Six years later the legislature passed an act which permitted the town to tax the pews to raise one-third of the total sum needed for the support of worship.[26] In Danvers only the pew holders voted in religious affairs.[27] Shirley seems to have made no tax levy for the support of worship after 1819.[28] In Bellingham the Baptists thought they owned the meeting house because they were a majority in the town. The court, however, ruled that Universalists and Congregationalists had the right to use it for their worship. When the Baptists broke into it on a Sunday which had been allotted to one of the other denominations, they were fined by the court.[29] New Bedford and Marshfield were granted the privilege to assess their pews for the support of worship.[30] The compulsory tax system was slowly giving way.

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[21] Christian Examiner, VII, 237–238.

[22] Cooke, A Remonstrance Against Established Religion in Massachusetts, 20, 24.

[23] Debates of the Convention of 1820, 580.

[24] Ford, History of Clinton, 464–465. The documents are given.

[25] Hurd, History of Middlesex, II, 822.

[26] Houghton, History of Berlin, 67; Massachusetts Laws, 1824, ch. CV.

The Republican victory at the polls in 1823 was followed by legislation favorable to the dissenters.[31] A new law recognized religious societies of not less than ten members who had separated themselves from the regular parish. This made it possible for ten people to organize a church of their own and thus avoid the tax for the support of the church of the parish. By filing a certificate, signed by the clerk of the society thus formed, they were exempt from the regular parish taxes. Newcomers were taxed for the support of the oldest religious society in the town until they actually joined another. The law greatly extended the privileges of dissenters and consequently weakened the established churches in the towns and parishes.[32] In an article in the Unitarian organ in 1830, it was estimated that nine-tenths of the parishes in the commonwealth were "poll parishes" as distinguished from the older type of geographical parishes. In the geographical parish all those who lived within the bounds of the parish were taxed for the support of the parish church, with such exceptions as were made by the laws. A "poll parish," on the other hand, was made up of those who actually joined it, regardless of their place of residence. In the article in the Unitarian organ the geographical parish was defended. The general situation was summarized as follows:

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[27] Hanson, History of Danvers, 244.

[28] Hurd, History of Middlesex, I, 478; Chandler, History of Shirley, 290.

[29] Partridge, History of Bellingham, 162–164. The suit cost six hundred dollars. The Baptists were compelled to pay the costs and a small fine.

[30] Massachusetts Laws, 1824, ch. C; 1823, ch. XXVI.

[31] American Historical Review, XXIX, 274. The author points out the relation between Jacksonian Democracy and the evangelical character of dissenters and Trinitarians as opposed to Unitarians.

> "Since that time (1800) it seems to have been the policy of the Legislature gradually to remove these obstacles (referring to the obstacles in the way for forming "poll parishes") probably from the influence of the sectaries in that body, or because such a change was thought to be required by justice and liberality, or as a party expedient."

It was pointed out that the laws of 1800, 1811, and 1824—all passed when the Jeffersonians were in power—had opened the way for the formation of "poll parishes."[33] During the years 1823 and 1824 a large number of religious societies were incorporated.[34]

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[32] Massachusetts Laws, 1824, ch. CVI.

[33] Christian Examiner, IX, 1–20.

[34] Massachusetts Laws, 1823, pp. 49, 56, 60, 63, 65, 71, 82, 112, 159, 183, 213, 215, 226, 235, 244, 245, 251, 256, 258; 1824, 296, 306, 321, 331, 342, 348, 356, 362, 395, 417, 420, 426, 438, 453, 464. Of these churches eleven were Congregational, eight Baptist, six Universalist,

After the law of 1824 was enacted many towns changed their method of supporting public worship. Chatham voted to leave it to the church, thus freeing the town of the burden.[35] Cohasset adopted the same plan.[36] In Malden the Universalists were the dominant religious denomination in the town. They gained control of the affairs of the town after which the court gave them the right to manage the church of the town.[37] In Carlisle the Unitarians controlled the town and the church. Many who were dissatisfied left the church in order to avoid paying toward the support of Unitarian worship.[38] In Easton and Cambridge the majority of the members of the churches were Trinitarians but the majority of the voters in the towns were in favor of the Unitarians. The Unitarians, therefore, obtained control of the church property; the Trinitarians and the ministers were left to get along as best they could.[39] The courts, by taking the position that the church property belonged to the town or parish, brought confusion into the church and parish relations. At all events, it was no longer possible to maintain one established church throughout the commonwealth.[40]

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three Methodist Episcopal, one Christian Union, one New Jerusalem, one Protestant Episcopal, one Christian, and in one instance the denomination was not mentioned.

[35] Smith, Historical Address 200th Anniversary of the Church of Chatham, 20.

[36] Bigelow, Narrative History of Cohasset, 371.

[37] Hurd, History of Middlesex County, III, 503–505.

[38] Ibid., I, 733–734.

[39] Hurd, History of Bristol County, 426; Cambridge Church Records, 446ff.; Universalist Trumpet and Magazine, May 5, 1832, 178.

[40] Hurd, History of Middlesex County, III, 503–505; Unitarian Advocate, 1832, 45, 86ff., 119ff., 229. In Hurd it is suggested that eminent lawyers, including Daniel Webster, did not think the court decisions were warranted by the laws. In the Unitarian Advocate

In 1828 the Universalists founded the "Trumpet and Magazine," a paper which consistently attacked the establishment. In the opening issue the editor stated that it was his aim

> "to expose the measures adopted by crafty, arrogant, and ambitious leaders of certain sects, by which they accumulate funds, subserve the interests of Sectarian establishments, and build up the exclusive and threatening cause they have espoused, on the ruins of our civil liberties, on evasion of the spirit of our laws, on prostrated reason, and on misrepresentations of the Holy Scriptures."[41]

The Baptist "Christian Watchman" had been in the fight for religious freedom since the time of the convention of 1820.[42] The Methodists, too, lent their support to the opponents of the establishment.

A decision rendered by the supreme court in 1830 again called the attention of the people to the undesirable possibilities of the establishment. The Trinitarian minister of Brookfield and the majority of the church members seceded from the parish. Two male members of the church who remained with the parish hired another minister for it. They claimed all of the church property. The court was practically bound by precedent in the case. It gave the property to the two members, who were to hold

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it is argued that "as soon as it (a church) separates itself from that society (the religious society of the parish) it is no longer a church, or at least no longer the same church." This was an argument in favor of having the church that was organized by the town or parish, rather than the church that had seceded, called the first church of the town or parish.

[41] Universalist Trumpet and Magazine, July 5, 1828, 1.

[42] Christian Watchman, Nov. 11, 18, 25, and Dec. 9, 23, 1820.

it for the parish. The opponents of the establishment played up the unpopularity of the decision.[43]

In the election sermon in 1830 the Reverend William Ellery Channing still referred to the church and state relations as satisfactory.

> "In this connection, I may be permitted to say,.....that the government of this Commonwealth has uniformly distinguished itself by the spirit of religious freedom. Intolerance, however rife abroad, has found no shelter in our halls of legislation...Our Commonwealth can boast no higher glory."[44]

But there were many who did not agree with Channing. The next year the House of Representatives voted two hundred and seventy-two to seventy-eight in favor of an amendment for disestablishment.[45] The Senate manifested its opposition by voting for indefinite postponement, but time was against it. The House next voted to annul the Third Article of the Declaration of Rights.[46]

At that stage of the struggle the Trinitarian Congregationalist organ published an article in favor of disestablishment. By way of contrast with Channing's election sermon statement, the writer pointed out that Massachusetts was the last state in which religious teaching was supported by a compulsory tax. He maintained that compulsion had brought continual strife, fraud, and evasion. A part of his argument recalls the attitude of Baptists and Quakers in the eighteenth century.

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[43] Pickering, Reports of Cases in the Supreme Court of Massachusetts, X, 172ff.; Buck, Ecclesiastical Law, 60–61; Spirit of the Pilgrims, V, 402ff.; Cooke, Unitarianism in America, 121.

[44] Election Sermon, 1830, 28–29.

[45] Universalist Trumpet and Magazine, Oct. 15, 1831.

[46] Ibid. Oct. 15, Nov. 12 and 26, 1831.

> "To say that our religion cannot be supported without the aid of establishments and law is to disgrace it in the eyes of the world, and to cast reproach on its maker."[47]

The "Boston Recorder," a Trinitarian newspaper, also published a series of articles in which the establishment was subjected to severe criticism. The argument that the "infidels" were running the affairs of the church no doubt appealed to many sincerely religious people. But the Unitarians, who dominated the parishes in the eastern part of the commonwealth, and the Trinitarians, who dominated them in the western part, were still in favor of the tax.[48]

The House again urged action in 1832. The Senate committee, composed of Hoar of Concord, Saltonstall of Salem, and Hastings of Worcester, reported that

> "they believed it to be their duty to report that it was not necessary nor expedient to adopt the proposed article."[49]

The opposition in the Senate was led by Hoar, Saltonstall, and James T. Austin of Boston. The Universalist organ emphasized the fact that all three were Unitarians and lawyers.[50]

Those who favored the amendment for disestablishment sent petitions to the legislature. One member of the legislature alone presented one hundred and fifty petitions with almost eight thousand names. The Senate finally voted to submit the amendment to the people. The vote in the House in 1831 and the final vote in the Senate were as follows:

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[47] Spirit of the Pilgrims, 1831, 629–648. Reprinted in the Trumpet and Magazine, Dec. 17 and 24, 1831. The editor explained that it had originally appeared in a "high-toned" orthodox publication.

[48] Boston Recorder, XVI (1831), 66, 69, 73, 77, 85, 93; Universalist Trumpet and Magazine, Nov. 12, 1831; Unitarian Advocate, 1832, 48. The Unitarian Advocate reports the dedication of the new church in Plymouth. According to the report there were 124 pews of which number 103 were sold to pay for the pews in the old church and to pay for the new building.

[49] Universalist Trumpet and Magazine, IV, 134, 138.

[50] Ibid., IV, 63, 78, 87, 94, 96, 101, 107, 122, 142, 150, 178.

County	Senate		House of Representatives	
	For	Against	For	Against
Suffolk	0	6	16	26
Essex	3	2	49	8
Middlesex	3	2	52	9
Plymouth	2	0	24	1
Norfolk	1	1	21	10
Bristol	3	0	23	9
Worcester	3	2	50	14
Hampshire	2	0	17	6
Hampden	2	0	19	1
Franklin	2	0	21	6
Berkshire	2	0	30	2
Barnstable	1	0	20	1
Nantucket	1	0	3	0
Dukes			3	0
Totals	25	13	348	93

Suffolk County was the only county that voted against the amendment in both houses. This was interpreted to mean that the center of Unitarianism was the center of the opposition.[51] When submitted to the people, the amendment passed by almost ten to one.[52] By it the commonwealth was relieved of the obligation to collect the tax for the support of worship. Each denomination was left to finance religious instruction as it chose. In 1834 the amendment was made effective by legislation. From that date Massachusetts was in line with the other states in the matter of religious freedom.[53]

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[51] Universalist Trumpet and Magazine, IV, 134, 150; Punchard, History of Congregationalism, 672ff., 691; Cooke, Unitarianism in America, 120. Cooke says, "From the beginning the liberal movement had been more or less intimately associated with that for the promotion of religious freedom and the separation of church and state." The facts do not seem to warrant the statement. He is on safer ground when he says, "It was only when church property was given by the courts to the parish in preference to the church, and

Although the Congregationalist–Federalist coalition seemed to have won a permanent victory in the Convention of 1820, it soon began to show signs of disintegration. The Trinitarians in the eastern part of the commonwealth developed strong prejudices against the Unitarians in the fight over the church property. By 1823 the Federalists in Massachusetts were defeated at the polls. The Republicans passed a law favorable to the opponents of the establishment, which added to their strength. The voluntary system of support found increasing favor in various parts of the commonwealth. The Unitarians resented the combination of dissenters, Trinitarians, and Republicans against them, but all efforts to stem the tide were in vain. By 1831 the House of Representatives voted favorably on an amendment for disestablishment. The Senate was able to postpone the submission of the amendment until 1833 when it was ratified by the people by a vote of approximately ten to one.

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when the 'standing order' churches had been repeatedly foiled in their efforts to retain the old prerogatives, that a majority could be secured for religious freedom. . . ." 121.

[52] The vote, according to Buck, was 32,234 to 3,273.

[53] For the amendment see Appendix E below.

CHAPTER IX

SUMMARY AND CONCLUSIONS

In the early seventeenth century, when Massachusetts was settled, every country of Western Europe had a state church. Many of the early settlers came to America because they disagreed with the state church in their native country. The Pilgrims were English radicals; they had separated from the established church, and later, having come into conflict with the authorities, they fled to Holland. There they came into contact with the continental radicals who believed in the complete separation of church and state. John Robinson, the pastor of the Pilgrims, made it clear that he was not willing to accept the radical program, but some of the Pilgrims did so. Robinson's followers, then, may be classed as a *via media* group. They demanded more liberty of conscience than was permitted in England, yet they believed that the state had some responsibility to the church. After arriving in Plymouth, they were probably the most tolerant European people in the world, until they were severely criticised by influential people in the mother country who blamed them for not maintaining proper religious and moral standards. Later, the Puritans in the Bay Colony also brought pressure upon the authorities in Plymouth with a view to raising the religious requirements in the colony. Under these influences the second generation in Plymouth reluctantly accepted an established church and tried to coerce the unorthodox, but in persecuting zeal Plymouth never equalled the Bay Colony. The Pilgrims and their descendants lacked the fierce persecuting spirit.

The Bay Colony settlers brought a form of state or established church with them. The details of their church and state relations were, however, the result of experience in the colony. At first they tried to maintain religious instruction by means of voluntary contributions; but the standards they set for themselves were so high, especially for a pioneer community, that the voluntary system proved inadequate. In 1638 a compulsory tax was adopted for those who failed to contribute their share voluntarily. During the next decade the compulsory system became general, except in Boston where the voluntary system was never replaced.

The compulsory system raised some new problems. All those who believed in liberty of conscience opposed it and raised embarrassing questions for the religious authorities. The Anglicans complicated the problem; they could hardly be classed as unorthodox in an English colony, yet they were opposed to contributing toward the support of the Congregational church. The crisis came when the Quakers made their appearance. They were determined to test to the limit the strength of the Puritan regime. After several of them had been executed, Charles II called for a halt in the persecution. Both Charles II and James II were interested in seeing the Puritan power reduced. They were partial toward the Anglican church and hoped to see it firmly rooted in the colony. The Glorious Revolution brought their plans to an end, but the Dutch William also demanded an extension of religious liberties in Massachusetts. Under the new charter granted by him all Protestants were to be tolerated. The Congregationalists interpreted this to mean that their church was still to be the established church to whose support all the taxpayers were to contribute. The Quakers refused to accept that interpretation and compelled the religious and political authorities to make stricter laws or give up their plans. When several Quakers were imprisoned for refusing to enforce the laws which were made to carry out the plan of the Congregationalists, their brethren appealed to the Crown in their behalf. In 1724 the Crown ordered the release of the prisoners and disallowed the laws under which they were prosecuted. The high tide of the Puritan domination had passed. Moreover, the Baptists and Episcopalians took advantage of the victory of the Quakers by making parallel attacks upon the established church. The leaders of the established church tried to rally their forces to stem the tide by calling a synod, but the dissenters in the colony and the imperial authorities thwarted their plans.

During the fourth decade of the eighteenth century the Great Awakening brought division into the ranks of the established church. Those who favored religious revivals were practically driven out of it in both Connecticut and Massachusetts. They formed churches of their own and expected to be treated at least as well as the Baptists and Quakers in the province. Neither of these denominations paid the taxes for the support of Congregational worship, if they provided churches of their own type. But the anti-revivalists, who controlled the established church as well as provincial politics, were determined to keep the "New Lights" or "Separates" (as they were called after they left the established church), from enjoying the special privileges of dissenters. Rather than pay the taxes for the support of the established church, many of the "New Lights" joined the Baptists. At first they accepted only as much of the Baptist creed and polity as they thought necessary to qualify for the exemption from the church rates, but when the authorities in the province made stricter laws to prevent them from enjoying the privileges of Baptists until they actually joined the Baptist church, large numbers became Baptists. With the accession of the "Separates," the Baptist church grew rapidly in numbers. It also became more aggressive; the "Separates" had not been accustomed to being in a church that enjoyed limited privileges. Moreover, the Baptists formed an association at this time in order to make their efforts for religious liberty more effective. Persecution, as the Baptists called the treatment meted out to them, thus increased their numbers and their effectiveness. No sooner was the association formed than the religious and political leaders in the province gave it an opportunity to demonstrate its strength. The defenders of the establishment overreached themselves when they tried to coerce the Baptists, or "Separate Baptists," in the town of Ashfield to pay the religious taxes in a town after it was incorporated.

For a generation the Baptists had had the privilege of paying for their own religious teachers in lieu of paying the regular taxes for the support of worship. This privilege was, however, limited to incorporated towns. In Ashfield, by a special law, the provincial authorities tried to compel the Baptists to pay the religious rates even after the town was incorporated. No doubt the authorities thought the Baptists in Ashfield were "Separates" who had not yet accepted all the forms of Baptists. Whatever they may have been trying to do, their action was most inopportune from the viewpoint of provincial and imperial politics. When the Baptists absolutely refused to pay the religious taxes their lands were sold for a fraction of their actual value. The Baptist association appealed to the Crown, after having exhausted all the possibilities for obtaining relief in the province. The imperial authorities welcomed the opportunity to bring division into the ranks of a rebellious party in the province. The provincial authorities were defeated. The liberties of the Baptists thus became a problem in imperial politics.

The economic implications of the church and state relations had always been a problem for the Puritan politicians. In the towns in which there were many Baptists and Quakers, who were exempt from the regular religious taxes, the Congregationalists found it burdensome, if not impossible, to maintain the high standards of religious instruction which were fixed by the General Court. The Baptists and Quakers offered a less costly form of religious instruction, or, at least, one in which the cost could be regulated by the local authorities in each town. Even before the system of exemptions for Baptists and Quakers, which were forced upon the provincial authorities by the Crown, the new and sparsely settled towns found it difficult to maintain religious instruction. The exemptions increased the difficulties. But when the provincial authorities tried, as in the Ashfield case, to compel the Baptists to pay toward the support of the established church the Crown called a halt.

The Episcopalians were never granted exemption from the religious taxes, but they were permitted to have the money which they paid applied to the use of their own religious teachers. Their most important conflict with the Congregationalists was on the question of an American bishop. Congregationalist leaders opposed bishops of every kind. They were not inconsistent in that opposition, for they never recognized the need of bishops. On the other hand, when they opposed the proposed American episcopate they generally also argued against established churches. In the latter argument they were inconsistent for they themselves had an established church. The imperial authorities were unwilling, for political reasons, to offend the dissenters in the mother country by granting the Episcopalians an American bishop. In America, the Baptists used, against the Congregationalist establishment, the arguments which the Congregationalists had used against the proposed episcopate.

The Revolution brought the apotheosis of the Lockean theories of civil and religious liberty. While Anglican leaders in the mother country were trying to counteract this use of Locke by the New England preachers, the opponents of the established church in the province took advantage of the Lockean theory to break down the establishment. The Baptists were the most effective proponents of the theory of freedom of conscience and the separation of church and state. Their denomination grew rapidly during the revolutionary period. They sent their delegates to the provincial and the Continental congresses to plead the cause of religious freedom. The patriotic party could not afford to offend those apostles of freedom in religion because they needed the support of the Baptists. During the Revolution the laws which provided for the maintenance of the established church were not enforced, but some of the problems of the church and state relations could not be evaded. Massachusetts was the last of the thirteen states to adopt a new frame of government. This was due, at least in a measure, to the fact that the church and state relations could not be adjusted to the satisfaction of the various denominations which were represented in the patriotic party. The extreme right wing of the party wanted the establishment fully restored and strengthened. The Baptists and other dissenters wanted complete freedom of conscience. The compromise which was finally adopted in the Declaration of Rights in the constitution of 1780 was indefinite or self-contradictory. It provided for tax supported religious instruction on the one hand, but did not allow the subordination of one denomination to another, on the other. No sooner was the constitution in effect than the Baptists, Universalists, and Methodists were again in a fight for religious freedom.

During the Critical Period the ministers of the established church quite generally supported the party which stood for strong state and national governments. During the war many of the ministers had not been paid their salaries, or, if they received what was due them, it was in a paper money which was almost worthless. Under the new constitution the courts of the commonwealth decided, in several cases, that the towns must make amends for these breaches of contract. This apparent alliance between the commonwealth government and the ministers of the established church was deeply resented in those towns in which the war had popularized local government. Any interference in local affairs, by the commonwealth government would have been resented. This, therefore, created a prejudice against the Congregational church and popularized Baptists and Universalists. Moreover, the French Revolution confirmed many of the ministers of the established church in their opinion that radicalism in politics and atheism in religion go hand in hand. Federalism and Congregationalism, therefore, formed an alliance; politics had a religious aspect. Sermons, especially those delivered on great public occasions, were political lectures based (sometimes rather remotely) on texts taken from the Bible. The close relation between Federalism and Congregationalism was not denied by the ministers.

The dissenters could not fail to note this connection between religion and politics. But, even if they had not seen it, the Jeffersonians were ready to remind them of it. They opposed the unholy alliance between religion and politics until they sensed the fact that it was playing into their hands. Most of the dissenters were easily won to a political party which opposed the Federalist-Congregationalist combination. By 1800 the two parties were approximately equal in strength in Massachusetts. The Federalist-Congregationalist combination had the advantage of being in office. They could muster bench, bar, and pulpit against the "atheistical Jacobins." The Jeffersonians had the advantage of being a new and growing party. From 1800 until 1807 the Federalists won in the elections, but in 1807 James Sullivan was elected by the Jeffersonians. There was no man prominent in state politics who had done more to fight the battles of the dissenters than Sullivan. Although he was a member of the Congregational church he was opposed to the compulsory tax for the support of religious instruction. No sooner was he elected than he used his influence to reduce the strength of the Congregationalists in politics. A bill was introduced for that purpose and was passed, but upon reconsideration it was defeated. The Federalists were back in power the next year. With their return the courts seemed to veer from their former interpretation of the constitution. Practically without warning, in the face of severe criticism by eminent authorities, the judges decided that ministers of unincorporated religious societies could not qualify as religious teachers under the constitution. They could no longer claim the taxes paid by their hearers. The decision, like the imprisonment of the Quakers in the first quarter of the eigtheenth century and the Ashfield law of the pre-Revolutionary period, seems to have been a last desperate effort on the part of the Congregationalist "stand patters." As in the other cases, it was impolitic for them. The dissenters were alarmed at this new line of attack. Their alarm was expressed at the polls, where the Jeffersonians again won. Their strategy succeeded this time. They passed the Religious Freedom Act, which nullified the effects of the court decisions against the dissenters and denied to the authorities of the commonwealth the right to supervise the religious instruction given by the various denominations. The law was a charter of liberties for the dissenters. The Congregational–Federalist party marked it for repeal, but the opportunity never presented itself because of the division in the ranks of Congregationalism. On the other hand, the Jeffersonians offended too many people by this law and other legislation to overcome the handicap of the party in New England, due to the opposition to the War of 1812. They were defeated in 1812 and were not returned to power until 1823. This was the "Indian Summer" of Federalism in the commonwealth.

There had always been a liberal wing in the Congregational church, but in 1805 there was an open breach between the liberals and the conservatives. The break came with the election of a Unitarian to the Hollis Professorship of Divinity at Harvard University. That election was a signal for a state wide alignment of liberals against conservatives. No sooner had the Trinitarians lost control of Harvard University than they planned a theological seminary of their own. Moderate and strict Calvinists compounded their differences and coöperated in the founding of Andover Theological Seminary. For a decade after 1805 both the Unitarians and the Trinitarians seem to have been interested in avoiding an open breach, but in 1815, when the war clouds lifted, some Trinitarians decided the time had come for an attack upon their theological foes. The Unitarians preferred to work in the quiet. They had more to gain by a "peaceful penetration" policy than by open warfare, but their leaders were human; they could no longer restrain themselves and keep silent under the caustic attacks from their erstwhile brethren. Before the conflict was over, enduring prejudices had been aroused over the division of the church property.

Under the constitution and the laws made since 1780, the legal rights of the members of the church in a town or parish were not clearly defined. The Trinitarians were under the impression that the church property belonged to the church members, as such, and not to the members of the parish. The fact that the church members elected the deacons, who acted as trustees for the church property supported their contention. The courts were called upon to decide the question of the ownership of the church property when the Unitarians and Trinitarians in a church divided. The Trinitarian contention would have given the church property to the majority of the church members. The courts decided that the church property belonged to the members of the town or parish where the church was located. They, therefore, gave the church property to the deacons elected by the members of the church who remained with the town or parish. Since the Trinitarians were quite generally the first to leave the parish when it became liberal, the Unitarians obtained control of more of the church property than the number of their church members warranted, if the property had belonged to the church members. Unfortunately for the Unitarians, the judges who made the decisions were generally of their denomination. This made it appear that the judges used political office for the benefit of their denomination. All the arguments of the judges and of other Unitarians never convinced the Trinitarians of the justice of the decisions. The fact that when the church was disestablished the church members seemed to get control of the church property added weight to the Trinitarian contention. If the church property belonged to a town or parish in 1820, why did the Trinitarians and Unitarians keep the property that was in their possession in 1834? The Trinitarians could hold theirs under their former argument, but the Unitarians must have changed their point of view. At all events, the division of the church property hastened disestablishment because

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it aligned the two factions of Congregationalism against each other, politically.

In 1820 the church and the state relations was an important subject in the discussion of the convention which was called to revise the constitution. The Federalist-Congregationalist party acquiesced in the calling of the convention because it wanted to see Maine separated from the commonwealth. The people of Maine were too democratic for the Federalists and endangered their hold upon commonwealth politics. The dissenters and some of the Congregationalists welcomed the opportunity to revise the clauses of the constitution that provided for the establishment. After prolonged discussion three amendments on that part of the constitution were submitted to the voters for ratification. Of these, only one was adopted. It provided for the abolition of the test oath for office holders.

In general, therefore, the results of the convention seemed to be an endorsement of the Federalist-Congregationalist regime. Leading members of the party stated the fact in public. Three years later, however, the Jeffersonians won the annual election and Federalism went out of existence. The defeat of the party was the cause of rejoicing among many Trinitarians. They blamed the Unitarians for interfering with their plans for the founding of Amherst College, for making Harvard University more sectarian than Oxford, and for saddling the Harvard Divinity School, which they alone needed, upon the state. The Unitarians deeply resented the charges. Some of their writers used language which showed little resemblance to the Sermon on the Mount. It did not convince the voters, whether Trinitarians or dissenters.

In 1824 the Jeffersonians again showed their interest in the religious issue in the commonwealth. A law was passed which extended the privileges of the dissenters. Many of the towns and parishes took advantage of the legislation to separate the civil and religious affairs. The voluntary system of support was experimented with in every denomination. Officially the Unitarians were the last denomination in the commonwealth to be converted to it. Their organ was still defending the geographical parish system in 1830. By that time the Trinitarians were seeing the light of a new day. During the next year their organ went over whole-heartedly to the support of the dissenters who were striving for complete disestablishment. Their conversion insured the success of the amendment. The House of Representatives passed it in 1831, but the conservative Senate, under the leadership of Unitarian lawyers, made an effort to have the matter indefinitely postponed. Even the Senate could not block matters, but for a short period. 10-1 The amendment was passed and ratified in 1833. The overwhelming vote in favor of it is evidence that the people were ready for the change. Massachusetts was thus brought into line with the other states in the Union. The Baptists deserve the most credit for popularizing the voluntary system for the period after 1740, but without the theological division in the ranks of the Congregational church it would probably not have come as early as 1833.

APPENDIX A

ARTICLES I, II, AND III OF THE DECLARATION OF RIGHTS OF THE CONSTITUTION OF 1780

I. All men are born free and equal, and have certain natural, essential, and unalienable rights; among which may be reckoned the right of enjoying and defending their lives and liberties; that of acquiring, possessing, and protecting property; in fine, that of seeking and obtaining their safety and happiness.

II. It is the right as well as the duty of all men in society, publicly, and at stated seasons, to worship the SUPREME BEING, the great Creator and Preserver of the universe. And no subject shall be hurt, molested, or restrained, in his person, liberty, or estate, for worshipping GOD in the manner and season most agreeable to the dictates of his own conscience; or for his religious profession of sentiments; provided he doth not disturb the public peace, or obstruct others in their religious worship.

III. As the happiness of a people, and the good order and preservation of civil government, essentially depend upon piety, religion, and morality; and as these cannot be generally diffused through a community but by the institution of the public worship of God, and of public instructions in piety, religion, and morality: Therefore, to promote their happiness, and to secure the good order and preservation of their government, the people of this commonwealth have a right to invest their legislature with power to authorize and require, and the legislature shall, from time to time, authorize and require, the

shall, from time to time, authorize and require, the

several towns, parishes, precincts, and other bodies politic, or religious societies, to make suitable provision, at their own expense, for the institution of the public worship of GOD, and for the support and maintenance of public Protestant teachers of piety, religion, and morality, in all cases where such provision shall not be made voluntarily.

And the people of this commonwealth have also a right to, and do, invest their legislature with authority to enjoin upon all the subjects an attendance upon the instructions of the public teachers aforesaid, at stated times and seasons, if there be any on whose instructions they can conscientiously and conveniently attend.

Provided, notwithstanding, that the several towns, parishes, precincts, and other bodies politic, or religious societies, shall, at all times, have the exclusive right of electing their public teachers, and of contracting with them for their support and maintenance.

And all moneys paid by the subject to the support of public worship, and of the public teachers aforesaid, shall, if he require it, be uniformly applied to the support of the public teacher or teachers of his own religious sect or denomination, provided there be any on whose instructions he attends; otherwise it may be paid towards the support of the teacher or teachers of the parish or precinct in which the said moneys are raised.

And every denomination of Christians, demeaning themselves peaceably, and as good subjects of the commonwealth, shall be equally under the protection of the law: and no subordination of any one sect or denomination to another shall ever be established by law.

APPENDIX B[1]

AMENDMENT PROPOSED BY HENRY H. CHILDS OF PITTSFIELD IN THE CONVENTION OF 1820

As the happiness of a people and the good order and preservation of civil government, essentially depend upon piety, religion, and morality; and as these cannot be generally diffused through a community, but by the public worship of God; and as the public worship of God will be best promoted, by recognizing the inalienable right of every man to render that worship in the mode most consistent with the dictates of his own conscience: Therefore, no person shall by law be compelled to join or support, nor be classed with, or associated to, any congregation or religious society whatever; but every person now belonging to any religious society, whether incorporated or unincorporated, shall be considered a member thereof until he shall have separated himself therefrom in the manner hereinafter provided. And each and every society or denomination of Christians in this State shall have and enjoy the same equal power, rights, and privileges, and shall have power and authority to raise money for the support and maintenance of religious teachers of their respective denominations, and to build and repair houses of public worship, by a tax on the members of the society only, to be laid by a major vote of the legal voters assembled at any society meeting, warned and held according to law.

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[1] Debates of the Convention, 557.

Provided, nevertheless, that if any person shall choose to separate himself from the society or denomination to which he may belong, and shall leave a written notice thereof with the clerk of such society, he shall thereupon be no longer liable for any future expenses which may be incurred by said society.

And every denomination of Christians demeaning themselves peaceably and as good citizens of the Commonwealth, shall be equally under the protection of the law; and no subordination of any one sect or denomination to another shall ever be established by law.

APPENDIX C[1]

THE FIRST OF THE AMENDMENTS PROPOSED BY THE CONVENTION OF 1820

The power and the duty of the Legislature to require provision to be made for the institution of the public worship of God, and for the support and maintenance of public teachers, shall not be confined to Protestant teachers, but shall extend and be applied equally to all public Christian teachers of piety, religion and morality; and shall also extend and be applied equally to all religious societies, whether incorporated or unincorporated.

All the moneys paid by the subject for the support of public worship and of the public teachers aforesaid, shall, if he require it, be applied to the support of the public teacher or teachers, if there be any, on whose instructions he attends, whether of the same, or of a different sect of denomination from that of the parish or religious society in which the said moneys are raised.

Provided, that all taxes assessed for the support of public worship, and of the public teachers aforesaid, upon the real estate of any non-resident proprietor or proprietors, shall be applied towards the support of public worship in the town, precinct or parish, by which such taxes are assessed; unless such proprietor or proprietors shall be resident within the Commonwealth, and shall be of a different sect or denomination of Christians from that of the town, precinct or parish by which such taxes are assessed.

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[1] Debates of the Convention, 613–614.

The clause in the third article of the declaration of rights, which invests the Legislature with the authority to enjoin, on all the subjects of the Commonwealth, an attendance upon the instructions of public teachers shall be and hereby is annulled.

No person shall be subjected to trial for any crime or offense for which, on conviction thereof, he may be exposed to imprisonment, or any ignominious punishment, unless upon presentment or indictment by a grand jury; except in cases which are or may be otherwise expressly provided for by the statutes of the Commonwealth. And every person charged with any crime or offense shall have a right to be fully heard in his defence by himself and his counsel.

APPENDIX D[1]

ADDRESS TO THE PEOPLE SENT OUT WITH THE PROPOSED AMENDMENTS BY THE CONVENTION OF 1820–1821

It is known to us, that the eminent men who framed the constitution under which we have lived bestowed on the only article of the declaration of rights, which has occasioned much discussion among us, the greatest attention. They appear to have considered religion in a twofold view; first, as a directory to every rational being, in the duties which he owes to the Creator of the universe; but leaving to every one to decide for himself, on the manner in which he shall render his homage, avow his dependence, express his gratitude, and acknowledge his accountability; and, secondly, as a social duty, prescribing rules to men in their intercourse with each other as members of the same family. They held social worship to be most intimately connected with social welfare. They believed moral excellence to be no less the effect of example, and of habit, than of precept. They seem to have been convinced, that in proportion as the members of civil society are impressed with reverence for the social rules contained in revealed religion, will they be faithful in performing those obligations on which political happiness depends. Upon such principals they rested those provisions which require an habitual observance of the Sabbath, and the support of public teachers in the sacred offices of that day. In all these sentiments we do most heartily concur.

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[1] Debates of the Convention, 623–624.

But we have thought it necessary to propose some changes in the third article.

The public sentiment on that part of the article which invests the Legislature with authority to enjoin attendance on public worship, has long been definitely expressed, and is well understood; and we, therefore, propose that so much of this article as relates to this subject, should be annulled.

We are also of the opinion that members of all religious societies ought to have the right and privilege to join, and worship with, any other society of the same denomination; as they now have the right to join themselves to any society, of a different denomination from that with which they have worshipped;—furthermore, that the power and duty of the Legislature to require provision to be made for the institution of public worship, and for the support and maintenance of public teachers, should extend, and be applied as well to societies which are unincorporated, as to those which are incorporated.

We recommend also, a provision, that all taxes assessed for the support of public worship, upon real estate and any non-resident proprietor, shall be applied towards the support of public worship in the town, precinct, or parish, by which such taxes are assessed; unless such proprietor shall be resident in the Commonwealth, and shall be of a different denomination of Christians from that of the town, precinct, or parish, by which the taxes are assessed.

We propose further to amend the declaration of rights, so as to provide, that persons on trial for crimes may be heard by themselves and counsel, instead of themselves or counsel, as the article now stands.

We propose another amendment, that no person shall suffer imprisonment, or other ignominious punishment, on official information; nor unless on indictment by a grand jury; except in cases expressly provided for by law. This amendment takes from public prosecutors the common law right to arraign, of their own authority, any citizen for misdemeanors, or crimes, without the intervention of a grand jury representing the people of each county.

APPENDIX E[1]

THE ELEVENTH AMENDMENT OF THE CONSTITUTION OF MASSACHUSETTS

As the public worship of God and instructions in piety, religion, and morality, promote the happiness and prosperity of a people, and the security of a republican government; therefore, the several religious societies of this commonwealth, whether corporate or unincorporate, at any meeting legally warned and holden for that purpose, shall ever have the right to elect their pastors or religious teachers, to contract with them for their support, to raise money for erecting and repairing houses for public worship, for the maintenance of religious instruction, and for the payment of necessary expenses; and all persons belonging to any religious society shall be taken and held to be members, until they file with the clerk of such society a written notice, declaring the dissolution of their membership, and thenceforth shall not be liable for any grant or contract which may be thereafter made, or entered into by such society; and all religious sects and denominations, demeaning themselves peaceably, and as good citizens of the commonwealth, shall be equally under the protection of the law; and no subordination of any one sect or denomination to another shall ever be established by law.

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[1] Constitution of the Commonwealth of Massachusetts, Boston, 1917.

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